

# Timber Legality Risk Assessment Democratic Republic of the Congo

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COUNTRY RISK  
ASSESSMENTS



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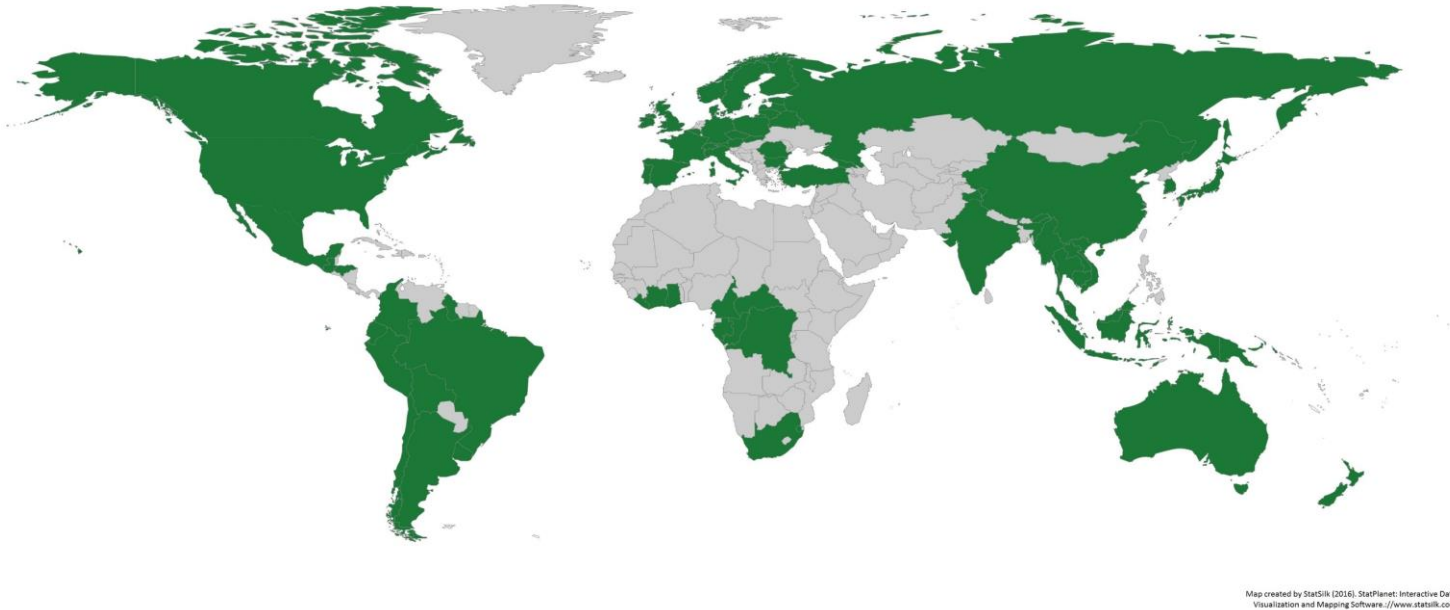
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## A. Introduction

This Timber Legality Risk Assessment for the Democratic Republic of the Congo provides an analysis of the risk of sourcing timber from areas of illegal harvesting and transport. NEPCoN has been working on risk assessments for timber legality, in partnership with a number of organisations, since 2007.

In that time, NEPCoN has developed timber risk assessments for more than 60 countries, illustrated in Figure 1.



*Figure 1. Countries for which NEPCoN have developed a legality risk assessment for timber*

The risk assessments are developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and NEPCoN. A detailed description of the methodology can be found on NEPCoN's website.

## B. Overview of legality risks

**Timber Risk Score:** 0 / 100 in 2017

This report contains an evaluation of the risk of illegality in the Democratic Republic of the Congo for five categories and 21 sub-categories of law. We found:

- **Specified risk for 18 sub-categories.**
- **Low risk for 0 sub-categories.**
- **No legal requirements for 3 sub-categories.**

The Timber Risk Score for The Democratic republic of Congo is 0 out of 100. The key legality risks identified in this report concern timber harvesting activities related to legal rights to harvest, taxes and fees, timber harvesting activities, and third parties' rights, and trade and transport.

For **Legal rights to harvest**, there is a risk that:

- illegal and illegitimate land occupation due to a lack of legal titles (1.1)
- A lack of consultation of local communities by the State bodies when granting modern land rights is the cause of conflicts and violations of communities' land rights between customary tenures and those who are granted modern rights (1.1)
- All artisanal wood exploitation is done without a written agreement with local community holders of forests for the following reasons (1.2):
  - The Decree on community forestry does not yet have implementing measures;
  - Local communities are neither aware nor informed of their rights.
- concession contracts are not in compliance with the 2002 Forest Code requirements and its regulations related to the concessions' allocation procedure, to the public inquiries demand, to neighboring communities' consultations and to the signature of 'cahiers de charges' which shall be included with the forestry concession contract (1.2)
- the allocation of forest concession contracts occurred through private treaty or by mutual agreement, through a unilateral decision of the Minister responsible for forests; instead of the legal procedure for public tender (1.2)
- lack of signing of social clauses with adjacent local communities when issuing concession licenses occur (1.2)
- Lack of valid forest management plan (1.2)
- management plans have been approved by the authorities without having submitted the required technical and social assessments required for an approved forest management plan (1.3).
- harvesting without an approved forest management plan (1.3)
- artisanal foresters are operating without applying low impact logging, contrary to what is required by law (1.3)
- harvesting without permit takes place (1.4)

- the regular logging license is not granted in compliance with the implementation measures. Currently, for a limited period of time but in violation of Decree 035, it is the Minister who delivers the industrial wood logging authorizations (1.4)

For **Taxes and fees**, there is a risk that:

- an absence of appropriate billing and collection of forest taxes by the government occurs. E.g. The logging tax is calculated from a fixed rate per cubic meter, while the law says it should be a percentage of the value of each species (1.5).
- non-payment of logging tax by the companies takes place through false declaration of volume harvested (1.5).
- VAT is not paid when timber is harvested illegally (timber theft) or harvesting is not declared (1.6)
- the price used for the sale of timber by the loggers is often lower than the price prescribed by law through the Mercurial (report of official selling rates on public markets), which leads to tax evasion (1.6)
- tax declarations are falsified and income tax payment are evaded (1.7).

For **Timber harvesting activities**, there is a risk that:

- Harvesting violations are violated, e.g. (1.8):
  - logging without having shown a management plan with a logging trails network for forestry products approved by the forestry administration.
  - The minimum timber harvesting diameters are not respected
  - the dimensions of the different logging roads and trails created by the companies are not in compliance with the technical standards set up by the forestry administration
- protected forestry species are logged without acquiring a special logging permit or a special logging authorisation from the competent authority (the Secretary General in charge of forests;) (1.9)
- harvesting of protected species takes place in the conservation areas without the required special permit (1.9)
- the export of protected species takes place without legal permits or with a forged permit, due to the difficulty in obtaining CITES licenses (1.9)
- there are complacency and corruption in the public service responsible for issuing the industrial and special harvesting permit for *Afrormosia* (CITES listed) (1.9)
- companies log without having an Environmental Impact Assessment and environmental management plan (1.10)
- companies who have the environmental management plan do not comply with the provisions adopted in it (1.10).
- requirements of health and safety are not complied with in the field (1.11)
- the relations between the company and its employees are not formally described according to the legal and regulatory provisions (1.12)



- there is no signed employment contract (1.12)
- employers do not register all their employees with social security (1.12)
- employees are under-age (1.12)

For **Third parties' rights**, there is a risk that:

- the user rights of the local communities and the indigenous peoples are not respected by forestry companies, with access to rights and resources often the subject of many restrictions (1.13)
- 
- companies do not use local workers to carry out the work. Which causes conflicts between the workers from distant local communities and the communities bordering the working site (1.13)
- companies do not compensate communities when damage or losses to the local communities and indigenous peoples happens (1.13)

For **Trade and transport**, there is a risk that:

- companies involved in transportation of wood do not produce the field book, which contain information on quality, quantity, species, the date of felling, the discharge date and the place of destination) for the transported wood (1.16).
- a field book containing false or difficult-to-verify information is used, in order to pay less tax than required for the volume, quality and/or species harvested (1.16)
- timber is transported without the necessary transport permit obtained from the Forestry Administration, or timber is accompanied by a falsified permit (1.16, 1.17).
- logs harvested illegally and the use of illegal transfer pricing practices, under-invoicing and other similar practices are present (1.18)
- export of timber without having obtained an authorisation for purchase, sale and export from the Ministry in charge of forests, relying only on a sales contract (1.18).
- timber is exported illegally by small-scale loggers through whom the timber crosses the borders to adjacent countries; including certain forestry businesses hiding behind this identity and avoiding paying export taxes or reforestation taxes at the border control (1.19)
- operators or traders abuse the special local permits and authorisations for logging and harvesting of CITES protected species by presenting them as authorisations of export, exploiting the complacency or ignorance of agents and controllers of the State assigned to customs services (1.20). CITES permits shall be obtain abroad and are difficult to obtain.
- harvesting of protected species takes place without a special harvesting permit or a special harvesting authorisation from the General Secretary of the Administration of Forests (1.20)

## Timber source types and risks

There are two main timber source types found in the Democratic Republic of Congo. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for these source types and found the risk conclusions to be the same.

### **Production forest**

The permanent production forests are made up of forestry concessions and forests that are put on the market after being subjected to a public inquiry. To obtain forestry concession, contract a forestry management plan shall be presented and validated by the forestry administration with written specifications drawn up with the local communities. Several different permit types can be obtained in production forest: Harvesting permit, special harvesting permit, small-scale harvesting permit, permit for harvesting fuel wood and charcoal.

concession contract must be approved either by presidential order, for an area between 1000 ha and 2000 ha, and by law (Parliament) for an area greater than 2000 ha

### **Protected forest**

The protected forests are those that belong to the domain of the State. They can be subjected to a forestry concession that benefits a business; or a forestry concession that benefits a local community.

To obtain a permit, the act of accreditation for all small-scale timber farmers and conclusion of a written agreement with the local communities who own the protected forests shall be obtained. Several different permit types can be obtained in protection forest: Harvesting permit, special harvesting permit, small-scale harvesting permit, permit for harvesting fuel wood and charcoal

This table summarises the findings of the timber legality risk assessment. The risks are not distinguished between the sources types for the Democratic Republic of Congo, hence the risk conclusions are for all sources of timber in the Democratic Republic of Congo are included in the table.

Legal Category	Sub-Category	Risk conclusion
Legal rights to harvest	1.1 Land tenure and management rights	Specified
	1.2 Concession licenses	Specified
	1.3 Management and harvesting planning	Specified
	1.4 Harvesting permits	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	Specified
	1.6 Value added taxes and other sales taxes	Specified
	1.7 Income and profit taxes	Specified
Timber harvesting activities	1.8 Timber harvesting regulations	Specified
	1.9 Protected sites and species	Specified
	1.10 Environmental requirements	Specified
	1.11 Health and safety	Specified
	1.12 Legal employment	Specified
Third parties' rights	1.13 Customary rights	Specified
	1.14 Free prior and informed consent	N/A
	1.15 Indigenous/traditional peoples rights	N/A
Trade and transport	1.16 Classification of species, quantities, qualities	Specified
	1.17 Trade and transport	Specified
	1.18 Offshore trading and transfer pricing	Specified
	1.19 Custom regulations	Specified
	1.20 CITES	Specified
	1.21 Legislation requiring due diligence/due care procedures	N/A

## C. Overview of the forest sector in Democratic Republic of the Congo

The forest area of the Democratic Republic of the Congo (DRC) contains three types of forest: State production forests, protected forests, and permanent production forests, established by the new Forest Code and promulgated by law 011/2002 dated 29 August 2002. The Congolese State alone holds the property rights to the forests under the Land Law, that affirms that the Congolese land and subsoil are owned by the State. However, the Forest Law accepts rights of ownership or use according to customs and local usages. As sole owner of the forests, the State can grant access rights to the forest area or the forest resources in various ways.

The form of these access rights is organised differently, depending on the aims of the petitioner, which can be for domestic/ residential purposes, or commercial purposes. When the petitioner seeks access to domestic, individual or collective needs, the access is free with no associated costs (Forest Code – Articles 36 and 42). Such access falls under what the Code calls the rights of use and does not lead to the acquisition of either authorisation or rights. Access to the forest resource for commercial purposes is through a system of access titles or authorisations delivered in the form of permits (originally the Forest Code – Article 90, par. 2; 96, 98 and 143; Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 relative to forest harvesting, Articles 1 to 4, 7, 16 and following but replaced in 2015 by l'Arrêté ministériel n° 050/CAB/MIN/EDD/01/03/BLN/2015 du 23 September 2015 relatif à exploitation forestière du bois d'œuvre).

For forest activities, the judicial nature of the required title depends firstly on the type of activities that the petitioner wants to undertake in the forest, and secondly on their personal qualifications. Indeed, a petitioner can seek access to a forest with the aim to remove either timber forest products, or non-timber forest products.

The rules of access to the timber resource depend on the types of harvesting and result in distinct permits being issued. When it is a small-scale production, the Forest Code (Articles 111 to 113) requires that the petitioner has a prior agreement with the Governor of the Province who owns the forests, to then conclude a written agreement with the local communities adjacent to the forest in question, before obtaining a small-scale production permit or a permit to harvest fuel wood and charcoal. Regarding industrial harvesting of timber, the relevant forestry business must seek an ordinary harvesting permit or – if dealing with protected species in the view of the CITES Convention – a special harvesting permit.

In a report on illegal logging in the DRC, Lawson (2014) finds nearly 90% of logging in the DRC is small-scale, illegal or informal, intended to supply the domestic and regional markets. In his report he finds the estimated harvest volume has doubled over the last six years (2008 to 2014), in response to the increase in population and income. The actual timber harvest in the DRC is currently about eight times the officially reported harvest.

A report by Resource Extraction Monitoring (2012) mentions that artisanal foresters have the same opportunities for trade and export of timber as industrial concessions (p. 16), meaning the illegal timber is not excluded from the international market. This report notes the emergence of new, sometimes foreign, investors who have circumvented the regulations with the approval of the administration to improperly obtain 'artisanal' permits.

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Despite processing capacities similar to or sometimes even superior to those of the industrial concessions, the 'artisans' are not bound by any social obligation towards the local communities, or any sustainable use standard (inventory, reforestation, etc.). Today their wood is found in the ports, in processing plants, and is exported to Europe, Asia and the US – just like the wood from the industrial concessions (p. 17).

The government has provided a poor response to the problem of illegal logging, reflecting the generally low level of governance of the country. As reported by Lawson (2014), corruption and the lack of political will are the factors considered by the majority of surveyed experts as the biggest obstacles to a better response.

Sources:

Lawson, S. (2014). *L'exploitation illégale des forêts en République démocratique du Congo* (The illegal exploitation of forests in the Democratic Republic of Congo). [online]. London: Chatham House. Available at:

[http://indicators.chathamhouse.org/sites/files/reports/Lawson\\_DRC\\_PP\\_2014\\_FR.pdf](http://indicators.chathamhouse.org/sites/files/reports/Lawson_DRC_PP_2014_FR.pdf)

[Accessed 2 July 2016]

Additional sources:

- Chatham House, 2013, Producer countries - Democratic Republic of Congo, <https://indicators.chathamhouse.org/explore-the-data/democratic-republic-congo>
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- Forest Legality Initiative, 2013, Risk tool - democratic Republic of Congo, <http://www.forestlegality.org/risk-tool/country/democratic-republic-congo#tab-products>
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## D. Legality Risk Assessment

### LEGAL RIGHTS TO HARVEST

#### 1.1. Land tenure and management rights

*Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.*

##### 1.1.1. Applicable laws and regulations

- Law 73/021 dated 20 July 1973 regarding the general property regime, land tenure and property regime, and safety regime; the so-called Land Law, as revised and completed on this day. Available at: [www.wipo.int/edocs/lexdocs/laws/fr/cd/cd003fr.pdf](http://www.wipo.int/edocs/lexdocs/laws/fr/cd/cd003fr.pdf).
- Article 53, assures 'The soil and subsoil are the exclusive, inalienable and imprescriptible property of the State' Obtention d'une Concession Foncière. Retrieved from the website of ANAPI-Agence-RDC on 29 June 2016. Available at: [www.investindrc.cd/fr/spip.php?article629](http://www.investindrc.cd/fr/spip.php?article629).
- Law 80/008 dated 18 July 1980 completing the Law dated 20 July 1973 regarding the general property regime, land tenure and property regime, and safety regime; the so-called Land Law
- Decrees dated 20 June 1957, 27 June 1960, and Decree 98 dated 13 May 1963 regarding measures and boundary marking. Available at: <http://leganet.cd/Legislation/Droit%20civil/O98.13.05.63.mesurage.htm>
- Decree 74/148 dated 2 July 1974 regarding measures for the enactment of the Land Law quoted above. Available at: <http://www.leganet.cd/Legislation/JO/2005/JOS.15.10.2005.Ord.86.115.pdf>
- The Land Law. Available at: [http://www.daldewolf.com/documents/document/20151125094842-36\\_loi\\_fonci%C3%A8re.pdf](http://www.daldewolf.com/documents/document/20151125094842-36_loi_fonci%C3%A8re.pdf)
  - Article 219, states 'The right of use of the land is only legally established through a title registration certificate granted by the State'
  - Article 387, 'Lands occupied by local communities become, when this law enters into force, state land'
  - Article 388, 'Lands occupied by local communities are the ones which these communities live on, cultivate or exploit in any kind of way – individually or collectively – in compliance with customs and local practices'

### 1.1.2. Legal authority

- The Parliament for areas above 2000 ha
- The Republic President for areas above 1000 ha and below 2000 ha
- The Ministry of Land Affairs
- The Provincial Governor
- The Guardian of Land Titles
- The Chief of Provincial Division of Rural Land below 2 ha and Urban Land below 5 acres

### 1.1.3. Legally required documents or records

- Form including a demand for land
- Renting contract
- Temporary occupation contract
- Land right concession contract: in two forms, ordinary or perpetual, established over the genuine title called registration certificate
- Registration certificate for the real land and property rights

### 1.1.4. Sources of information

#### *Government sources*

- Loi n° 73-021 du 20 Juillet 1973 portant Régime général des biens, régime foncier et immobilier et régime des sûretés dite loi foncière, telle que revue et complétée à ce jour. Available at: [www.wipo.int/edocs/lexdocs/laws/fr/cd/cd003fr.pdf](http://www.wipo.int/edocs/lexdocs/laws/fr/cd/cd003fr.pdf). [Accessed 29 June 2016]
- Code Foncier. Journal Officiel n° Spécial 15 octobre 2005. JOURNAL OFFICIEL de la République Démocratique du Congo. Available at: <http://www.leganet.cd/Legislation/JO/2005/JO.15.10.2005.DB.pdf>. [Accessed 29 June 2016]

#### *Non-Government sources*

- PROGRAMME DE DEVELOPPEMENT ET DE CONSTRUCTION DE LA PAIX DANS LA REGION DE L'AFRIQUE DES GRANDS LACS (2010). *Etude sur la problématique foncière au Nord-Kivu, RDC* (Study Report on the land right question and its challenges in the province of South Kivu in DRC). [online]. Available at: [http://blog.ccfid-terresolidaire.org/grandslacs/public/etude\\_problematique\\_fonciere\\_au\\_nord\\_kivu\\_-\\_rdc\\_-\\_ccfd\\_fat\\_gret\\_-\\_janv\\_2010.pdf](http://blog.ccfid-terresolidaire.org/grandslacs/public/etude_problematique_fonciere_au_nord_kivu_-_rdc_-_ccfd_fat_gret_-_janv_2010.pdf) [Accessed 20 May 2016].
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- communities). [online]. Publié sur le site web d'EcoCongo, au. Available at: <http://www.ecocongo.cd/fr/system/files/f-epcj-a4.6-e1.2-n4-s1.5-2.pdf> [Accessed 29 June 2016]
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  - Justice et Paix (2011). *Accaparement des terres en RD Congo et la Protection des droits des collectivités locales* (Analysis report regarding Land grabbing in DRC and the protection of local communities rights). [online]. Available at: [http://www.justicepaix.be/IMG/pdf/2011\\_Analyse\\_Accaparement\\_des\\_terres\\_en\\_RD\\_Congo\\_et\\_la\\_protection\\_des\\_droits\\_des\\_collectivites\\_locales.pdf](http://www.justicepaix.be/IMG/pdf/2011_Analyse_Accaparement_des_terres_en_RD_Congo_et_la_protection_des_droits_des_collectivites_locales.pdf) [Accessed 20 May 2016]
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  - Malangu, N., M. Nkumba, & K. Mutombo (n.d.). *Statut et protection juridiques des droits fonciers en vertu de Coutume et usages locaux en RDC. (Legal status and protection of land rights under custom and local practice in DRC)*. [online]. Available at <http://www.leganet.cd/Doctrine.textes/DroitCiv/Droitdesbiens/article%20Nsolotshi%20Malangu.2013.pdf>. [Accessed 29 June 2016]

#### 1.1.5. Risk determination

##### *Overview of Legal Requirements*



Tenure in the DRC is characterised by the dualism between the written modern Land Law, and customary tenure.

The Congolese State has the sole right to land ownership under the Land Law which states that Congolese soil and subsoil belong to the State (Article 53). As the exclusive owner of the land, the State may grant rights of use or access to land in the form of a concession pursuant to Article 219 of the Land Law which provides that: "The right of use of the land is only legally established through a title registration certificate granted by the State."

However, "... Lands occupied by local communities are the ones, which these communities live on, cultivate or exploit in any kind of way – individually or collectively – in compliance with customs and local practices'. " (Article 388). As such, customary land rights are not covered by titles but are simply recognised by the local customs and practices.

Modern land rights are awarded after the following documents are obtained:

- Land Application Form duly completed by the applicant and lodged with the Land Administration;
- Lease contract or temporary occupation of land contract, signed by the Minister of the Central Government, who is responsible for land affairs;
- Land concession contract, referred to as Registration Certificate, signed by the Minister of the Central Government responsible for Land Affairs Said concession contract must be approved either by presidential order, for an area between 1000 ha and 2000 ha, and by law (Parliament) for an area greater than 2000 ha.

The land legality determines the forest legality, given that forests are embedded in the soil. The law requires that the areas of land from, which the wood is extracted, are allocated following the procedure to obtain legal documents set out above.

#### *Description of risk*

The Land Law in Article 388 anticipates that an order by the Head of State shall be made to organise the customary land rights. That order has not been made since the Land Law came into effect in 1973. This creates legal uncertainty with respect to land, and lead to conflicts.

According to IFDP (2010) and Justice et Paix (2011), the DRC faces illegal and illegitimate land occupation due to a lack of legal titles, and illegal land occupation using false land rights.

A lack of consultation of local communities by the State bodies when granting modern land rights is the cause of conflicts and violations of communities' land rights between customary tenures and those who are granted modern rights.

In the absence of official titles protecting customary land rights, the demand for land, for various projects, is high.

#### *Risk conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### 1.1.6. Risk designation and specification

Specified risk

#### 1.1.7. Control measures and verifiers

The documents below may be used to check the legality of land rights but not of forest logging rights:

- Land Application Form duly completed by the applicant and lodged with the Land Administration;
- Lease contract or temporary occupation of land contract, signed by the Minister of the Central Government, who is responsible for land affairs;
- Land concession contract, referred to as Registration Certificate, signed by the Minister of the Central Government responsible for Land Affairs Said concession contract must be approved either by presidential order, for an area between 1000 ha and 2000 ha, and by law (Parliament) for an area greater than 2000 ha.

In addition to these, the purchaser of wood from the DRC should request his suppliers to present:

- Report from the control missions carried out by land rights administration officers
- Minutes of proceedings of officers and officials under oath
- Report from monitoring missions of civil society attesting the use of the local communities' consent before allocating their land concessions

DRC timber buyers should therefore make sure that lands from which the timber derives have been allocated in compliance with the relevant procedural steps and the acquisition of the above documents.

## 1.2. Concession licenses

*Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.*

### 1.2.1. Applicable laws and regulations

- Law 011/2002 dated 29 August 2002 related to the Congolese Forest Code in the Articles 82, 83, 84 and the following; 90 alinea 1; 94; 113, 144 and 155. Available

at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>

- Decree 05/116 dated 24 October 2005 on conversion procedures from old forestry titles to forest concession contracts and giving extension for the acquisition of forest logging titles moratorium, Articles 14, al. 1 and 2, 15 and 23. Available at: <http://www.leganet.cd/Legislation/JO/2005/JO.25.10.2005.2.pdf>
- Decree 08/09 dated 8 April 2008 on the forest concessions' attribution procedure Articles 37 and 38. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/D.08.09.08.04.2008.htm>
- Decree 14/18 dated 2 August 2014 on the forest concessions' attribution procedure to local communities. Available at: <http://faolex.fao.org/docs/pdf/cng140362.pdf>
- Ministerial Decree 028/CAB/MIN/ECN-TI 27/JEB/08 dated 7 August 2008 related to templates for concession contract for harvesting of forest products and the related specifications, Article 32. Available at: [http://pfbcbfp.org/docs/news/mars\\_avril2009/atelier\\_conversiontitreskinshasa/Arrete%20N%C2%B0028\\_Cahier%20des%20charges.pdf](http://pfbcbfp.org/docs/news/mars_avril2009/atelier_conversiontitreskinshasa/Arrete%20N%C2%B0028_Cahier%20des%20charges.pdf)
- Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 regarding forest logging (Articles 1 to 4, 7, 16 and the following). Available at: <http://fr.calameo.com/books/000963852b9ac328e584e>
- Law 73/021 dated 20 July 1973 regarding the general property regime, land tenure and property regime, and safety regime; the so-called land law, as revised and completed on this day. Available at: [www.wipo.int/edocs/lexdocs/laws/fr/cd/cd003fr.pdf](http://www.wipo.int/edocs/lexdocs/laws/fr/cd/cd003fr.pdf)

#### **1.2.2. Legal authority**

- The Parliament for areas above 2000 ha
- The Republic President for areas above 1000 ha and below 2000 ha
- The Ministry of Land Affairs
- The Provincial Governor
- The Guardian of Land Titles
- The Chief of Provincial Division of Rural Land below 2 ha and Urban Land below 5 acres

#### **1.2.3. Legally required documents or records**

- Letter from the Minister responsible for forestry, advising of the forestry title conversion decision
- Forest concession contract signed by the Minister of Central Government responsible for forestry, approved by decree, relating to areas above 300,000 ha and below or equal to 400,000 ha; approved by a law concerning areas above 400,000 up to 500,000 ha

- Letter from the Minister: the concession allocation through private arrangements can only be effected if based on a supporting letter from the Minister in charge of forests

#### 1.2.4. Sources of information

##### *Non-Government sources*

- Greenpeace (2013). *Le «Chaos organisé» dans le secteur de l'exploitation forestière de la RD Congo une menace aux moyens de subsistance, aux forêts et au commerce* (The "organized chaos" in the forest and mining sector of the DRC, a threat to livelihoods, forests and trade). [online]. Available at: <http://www.greenpeace.org/africa/fr/Actualities/actualites/Le-Chaos-organise-dans-le-secteur-de-l'exploitation-forestiere-de-la-RD-Congo/> [Accessed 18 May 2016].
- FERN (2006). *Gouvernance forestière en République démocratique du Congo* (Forest Governance in the Democratic Republic of Congo). Available at: [http://www.fern.org/sites/fern.org/files/2006.11\\_Forest\\_Governance\\_in\\_RDC\\_fr.pdf](http://www.fern.org/sites/fern.org/files/2006.11_Forest_Governance_in_RDC_fr.pdf) [Accessed 25 May 2016]
- Resource Extraction Monitoring (2012). *Dérives de l'exploitation forestière artisanale OI REM, mai 2012 - Observation Indépendante de la mise en Application de la loi forestière et de la gouvernance en RDC* (Drifts of artisanal logging OI REM, May 2012 – Monitoring the implementation of independent Implementation of forest law and governance in the DRC). [online]. Available at: [http://www.observation-rdc.info/documents/Note\\_artisanale\\_OIFLEG\\_RDC\\_REM\\_7\\_2012.pdf](http://www.observation-rdc.info/documents/Note_artisanale_OIFLEG_RDC_REM_7_2012.pdf) [Accessed 1 July 2016]
- Global Witness (2007). *Forêts de RDC: « Vers des normes satisfaisantes de gestion et de gouvernance » ?* (Forests in DRC: Towards adequate standards of management and governance?). [online]. Available at: <https://www.globalwitness.org/sites/default/files/library/policybrieffinalfr.pdf> [Accessed 20 May 2016]
- Global Witness (2015). *L'impunité exportée* (Impunity exported). [online]. Available at: [http://www.congoforum.be/upldocs/RDC\\_Bois\\_Export\\_Illegal\\_GW\\_15.pdf](http://www.congoforum.be/upldocs/RDC_Bois_Export_Illegal_GW_15.pdf) [Accessed 20 May 2016]
- SODEFOR (2016). *Les forêts en R.D. Congo* (Forests in DRC). [online]. Available at [www.sodefor.net/home.php?page=les-foret-en-rd-congo](http://www.sodefor.net/home.php?page=les-foret-en-rd-congo) [Accessed 20 May 2016]
- Ressource Extraction Monitoring (REM) (2011). *MISE EN APPLICATION DE LA LOI FORESTIERE ET DE LA GOUVERNANCE. ANALYSE DE LA LEGISLATION FORESTIERE DE LA RDC* (Implementation of forest law and governance – Analysis of forest legislation in the DRC). [online]. Available at [http://observation-rdc.info/documents/REM\\_RDC\\_legislation.pdf](http://observation-rdc.info/documents/REM_RDC_legislation.pdf) [Accessed 20 May 2016]
- CODELT (2011). *La Grille de Légalité de l'exploitation du bois produit en RDC. In collaboration with WWF and Direction juridique du Ministère congolais des forêts* (The operation of Legality grid of wood produced in DRC. In cooperation with WWF and Legal Department of the Congolese Ministry of Forestry). Not available online.

#### 1.2.5. Risk determination

### *Overview of Legal Requirements*

The following bullet points present the steps and procedures relating to the issue of forest concession licenses:

#### For traditional logging:

- Preliminary acquisition of the approval delivered by the Provincial Governor of forests, if suggested by the local forestry administration
- Signed contract agreement between the logging company and the representatives of the local community concerned

#### For industrial logging:

- Preliminary public inquiry and stakeholder consultation (Article 84)
- Allocation through tendering and, occasionally, through private arrangements
- If allocation is achieved through tendering, the decision is taken by the Minister in charge of forests, following a procedure based on a Decree (Article 83, al. 3)
- If effected through private, over-the-counter arrangements, the allocation is supported and allowed by the Minister in charge of forests (Article 86)
- Signed forest concession contract, for which the template is provided through Decree by the minister in charge of forests (Article 95)

### *Description of risk*

#### For traditional logging:

According to CODELT (2011), to date no approval has been given to a forest logging company for the following reasons:

- A format for notice of official approval of artisanal loggers was finally produced in 2013 but, for the following reasons, it is not sufficiently promoted and used by all Provincial Governors:
  - The decentralization process has led the transition from 11 to 26 provinces
  - The Provincial Governors, particularly of new provinces, who are supposed to deliver the act of accreditation, are neither prepared, nor in some cases, even aware.

According to Greenpeace (2013):

- The rate of the tax for approval (to be determined by order of the Ministers of Finance and Environment and Forests) has not been set.
- Provincial and local governments are neither prepared nor equipped for forest control.
- All artisanal wood exploitation is done without a written agreement with local community holders of forests for the following reasons:
  - The Decree on community forestry does not yet have implementing measures;
  - Local communities are neither aware nor informed of their rights.

### For industrial logging

According to Resource Extraction Monitoring (2012) and FERN (2006):

- Very few forestry companies have finalized forestry concession contracts which are in compliance with the 2002 Forest Code requirements and its regulations related to the concessions' allocation procedure, to the public inquiries demand, to neighboring communities' consultations and to the signature of 'cahiers de charges' which have to be included with the forestry concession contract;
- In fact, most forest contracts in the period 2002 to 2008 were created under the Colonial Decree of 1949, an inappropriate text and obsolete in light of the legal and regulatory framework of the Forest Code. For this reason, the allocation of forest concession contracts increasingly occurred through private treaty or by mutual agreement, through a unilateral decision of the Minister responsible for forests; instead of the legal procedure for public tender. Such abuse of the mutual agreement exposes the Minister's decision to reviews and to appeals on administrative or judicial grounds;
- The Forestry Administration itself has not strived to meet the requirements, procedures and deadlines set by the new Forest Code relating to the attribution of forest concessions or operating licenses granted to timber operators within artisanal forests;
- It has been this period of uncertainty that led to an end of the conversion process (legal review) of old forest titles into new concession agreements that were entered into between 2008 and 2009. It is only after 2011 and 2012 that we see the correct form of forest concession contracts, which included negotiation of social clauses with adjacent local communities, with the accompaniment of some national NGOs under the supervision of WWF. Subsequently, a facilitation mission financed by the World Bank came to support and accompany the process of negotiation and signing of social clauses.
- At the end of the process of legal review of logging titles, there are 57 titles of forestry concessions that have a management plan for the first four years of cut (Annul Approved Cut) approved by the Forestry Administration, and social clauses duly signed and validated. The Management Plan has served as an interim management plan for the first four years (2011–2015). During this period, the companies were required to develop their management plan; with the law providing up to five years for companies to produce a PA. To date, all of these logging companies are in full forest management process and there are only three that have a validated PA. Three other PAs are in the process of being validated;
- Of the 57 forest concession contracts granted by the State, fewer than a dozen applicants have correctly completed the two main prerequisites, which are:
  - The presentation of a validated forest management plan;
  - The signing of the social clauses of the specifications with the neighboring populations of forest titles.
- The remaining companies have a forest concession that appears legal, but is for most of them, just a façade of legality, because the State has turned a "blind eye"

on the actual performance by each of the companies, technical and social obligations respectively related to plans of facilities and social clauses. Indeed, very few forestry companies to date have been able to present the preliminary technical and social studies for the requisite forest management plan.

- In addition to these fifty companies, there still remain to this day numerous illegal loggers acting as companies, and individuals acting as artisanal loggers.

#### *Risk conclusion*

The risk of illegality is low with regards to issuance of concession licenses for the logging companies (less than 10), which have gone through public tender and presented the documentation required by the law in order to be granted a concession.

For the remaining 50 or so, as well as the individuals acting as logging companies or false artisanal loggers, the risk of illegality is defined as specified. In summary, this indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.2.6. Risk designation and specification**

Specified risk

#### **1.2.7. Control measures and verifiers**

- Proper legal procedures for obtaining concession licenses shall be followed.
- Valid concession license agreements shall exist.
- The process of obtaining concession shall follow an open and transparent process based on clear criteria and be confined to eligible organizations.
- Independent stakeholder consultation shall confirm that legal procedures for obtaining concession licenses have been followed.
- Final list (overview table) of titles showing a favorable recommendation of conversion of the old forestry titles by the Inter-Ministerial Commission (CIM) shall be available and reviewed
- Minutes of conclusions of proceedings of CIM (first and second session)
- Letter from the Minister responsible for forestry advising of the forestry title conversion decision
- Forest concession contract signed with the Ministry of Central Government responsible for forestry, approved by Decree, relating to an area above 300,000 ha and below or equal to 400,000 ha; approved by a law for areas above 400,000 up to 500,000 ha
- Concession allocation through private arrangements can only be effected if based on a support letter from the Minister in charge of forests
- The purchaser of wood will need evidence that the social and technical assessments, signed 'cahiers de charges' with the local populations, and approved management

plans were part of the file presented by the supplier when he or she applied for the concession.

### 1.3. Management and harvesting planning

*Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.*

#### 1.3.1. Applicable laws and regulations

- Forest Code – Articles 68, 71 and 76. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Ministerial Decree 036/CAB/MIN/ECN-EF/2006 dated 5 October 2006 on procedures for the elaboration, validation and implementation of management plans of forest concessions, in its Articles 10, 16 and 20. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.036.05.10.06.pdf>
- Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 related to forest logging, Articles 1 to 4, 7 and 16 and the following. Available at: <http://fr.calameo.com/read/000963852b9ac328e584e>

#### 1.3.2. Legal authority

- The General Secretary for the Environment, Nature Conservation and Sustainable Development
- The Head of Department of Forest Inventories and Forest Management (DIAF)

#### 1.3.3. Legally required documents or records

- Forest inventories reports
- Reports of socio-economic challenges
- Certificate of compliance for the sampling plan by the Forest Authorities Committee counting as members: The Director of Department of Forest Inventories and Forest Management, the Head of the Forest Management Plan Division, the Head of the Forest Mapping Division, the Director of Forest Management, the Director for Wildlife Resources and Hunting, the Director for Forest Land Registry, and the Director for Forest Controls and Inspections
- Forest Management Plan (25 years)
- Quinquennial Forest Management Plan (5 years) and Annual Forestry Operations (1 year)

#### 1.3.4. Sources of information

*Government sources*



- République Démocratique du Congo Ministère De L'environnement, (2007). *Guide Opérationnel – Normes d'inventaire d'aménagement forestier* (Operational Guide – Forest Management Inventory Standards). [online]. Conservation De La Nature, Eaux Et Forêts, Service Permanent D'inventaire Et D'aménagement FORESTIERS (SPIAF). Available at: [http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/Normes\\_d\\_inventaire\\_d\\_aménagement\\_forestier.pdf](http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/Normes_d_inventaire_d_aménagement_forestier.pdf) [Accessed 4 November 2016]
- Outline of the forestry operations annual report – MEDD
- leganet.cd. (n.d.). Forest management plans inventory standards. Available at: <http://www.leganet.cd> [Accessed 4 November 2016]
- leganet.cd. (n.d.). Written Management Plan outline. Available at: <http://www.leganet.cd> [Accessed 4 November 2016]
- The Governor's report approving the forest management plan after getting a positive opinion from the provincial forestry administration. This may be requested from the forest manager/ supplier.
- Reports from the validation examinations done by the services of the Department of Forest Inventories and Forest Management (DIAF)

#### *Non-Government sources*

- Global Witness (2007). *DRC's forests: "towards satisfactory management and governance standards"?* [online]. Available at: <https://www.globalwitness.org/documents/11563/policybrieffinal.pdf> [Accessed 24 May 2016]
- Observateur Indépendant FLEG - RDC (2013). *Stratégie de la société civile sur l'observation indépendante de la législation et de la gouvernance forestière (OI-FLEG) en RDC* (Civil society strategy on independent monitoring of legislation and forest governance (FLEG) in the DRC). [online]. Available at: [http://www.observation-rdc.info/documents/RDC\\_strategie\\_OI\\_2013.pdf](http://www.observation-rdc.info/documents/RDC_strategie_OI_2013.pdf) [Accessed 24 May 2016]

### **1.3.5. Risk determination**

#### *Overview of Legal Requirements*

According to articles 4, 5, 6, 7 et 23 of Ministerial Order N° 036/CAB/MIN/ECN-EF/2006:

The forest concessionaire is required to develop in the first four years of the signing of the contract:

- A forest management plan;
- A five-year management plan;
- The operational plan of the first year of the management plan.

During the development period of the management plan, the concessionaire may solicit and obtain an early operating permit established by order of the Minister in charge of forests.

The management plan is developed according to the operational guides whose model is provided for by Article 2 of the decree quoted above. The management plan covers an area corresponding either to a single forest concession or several concessions, when they are adjacent and belong to a single concessionaire.

The operational guidelines are a set of guidelines and standards developed and published by the Forestry Administration and used in the preparation of management and operational plans of the concessions.

The approval of the forest management plan, the five-year management plan and the annual plan of operation of a single area under management is sanctioned by an order of the governor of the province where the forest concession is located, after consulting the competent Forestry Administration.

Artisanal loggers must comply only with the Standards for Reduced Impact Logging (RIL) issued by the Department of Forest Inventories and Forest Management (DIAF); artisanal loggers are not required to have a management plan, but must observe the RIL standards in their operating mode.

#### *Description of Risk*

According to Observateur Indépendant FLEG - RDC (2013):

- Up to now, very few companies have been able to present the technical and social assessments required for a Forest Management Plan to be approved. Nevertheless, there are 57 such management plans approved by the authorities while only about 10 have submitted the required assessments and are actually legal. The other 47 or so plans are illegal.
- Some industrial loggers are working without having undertaken the required assessments before engaging in forest management, without even having an approved management plan and are therefore operating illegally.
- Some artisanal foresters are operating in the forest without applying low impact logging, contrary to what is required by law.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.3.6. Risk designation and specification**

Specified risk

#### **1.3.7. Control measures and verifiers**

The three management plans required to operate legally are the following:

- The Forest Management Plan (25 years) presented to the Forestry Administration represented by the director of Department of Forest Inventories and Forest Management, the Director of Forest Management, the Director of Forest Registry, and the Head of the Forest Management Plan Division

- The quinquennial Forest Management Plan presented to the Forestry Administration (5 years) represented by the forestry authorities quoted above
- The Annual Forestry Operations plan presented to the Forestry Administration (1 year) represented by the forestry authorities quoted above

The following documents form the package that needs to be presented to forest authorities by a logging company in order to get the three types of management plans (1 year, 5 years and 25 years) approved. A logging company which is not able to present these documents may have had its plan approved illegally:

- The forestry inventories reports made by the forestry administration represented by the Head of the Department of Forest Inventories and Forest Management, the Director of Forest Management, the Director for Forest Registry, and the Head of the Forest Management Plan Division
- Reports on socio-economic challenges made by the Forestry Administration represented by the forestry authorities quoted above
- Certificate of Compliance for the sampling plan by the forestry authorities  
Committee counting as members: The Director of Department of Forest Inventories and Forest Management, the Head of the Forest Management Plan Division, the Head of the Forest Mapping Division, the Director of Forest Management, the Director for Wildlife Resources and Hunting, the Director for Forest Land Registry and the Director for Forest Controls and Inspections

Again, a supplier who presents management plans without the documentation identified in the three bullet points above would be at a high risk of having obtained them illegally.

## 1.4. Harvesting permits

*Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.*

### 1.4.1. Applicable laws and regulations

- Law 011/2002 dated 29 August 2002 regarding the Congolese Forest Code and Articles 94, 96, 97 and following; 111, 112 and 113. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>

- Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 related to timber logging, Articles 1 to 4, 7, 16 and following. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.035.05.10.06.pdf>

#### 1.4.2. Legal authority

- National Minister in charge of forests
- General Secretary in charge of the Forestry Ministry
- Provincial Governor
- Provincial Minister in charge of forests

#### 1.4.3. Legally required documents or records

- Harvesting permit
- Traditional logging license
- Fuel wood and charcoal logging license
- Regular logging license and special logging permit

#### 1.4.4. Sources of information

##### *Government sources*

- MINISTERE DE L'ENVIRONNEMENT, CONSERVATION DE LA NATURE ET TOURISME. DIRECTION INVENTAIRE ET AMENAGEMENT FORESTIERS (2009). *Canevas du rapport annuel d'opérations forestières* (Framework of the annual forest operations report). [online]. Available at: <http://www.medd.gouv.cd/v2/index.php/documents-et-publications?download=34:2014canevas-du-rapport-annuel-doperation-forestiere-11-2009-pdf> [Accessed 24 May 2016]
- Law 011/2002 dated 29 August 2002 regarding the Congolese Forest Code in its Articles 82, 83, 84 and following; 90, alinea 1; 94, 113, 114 and 155. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Decree 035/CAB/MIN/ECN-EF/2006 dated 05 October 2006 related to timber logging, articles 1 to 4, 7, 16 and following. Available at: <http://fr.calameo.com/read/000963852b9ac328e584e>

##### *Non-Government sources*

- FERN (2006). *Gouvernance forestière en République démocratique du Congo* (Forest Governance in the Democratic Republic of Congo). [online]. Available at [http://www.fern.org/sites/fern.org/files/2006.11\\_Forest\\_Governance\\_in\\_RDC\\_fr.pdf](http://www.fern.org/sites/fern.org/files/2006.11_Forest_Governance_in_RDC_fr.pdf) . [Accessed 25 May 2016]
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- Greenpeace (2013). *Le «Chaos organisé» dans le secteur de l'exploitation forestière de la RD Congo une menace aux moyens de subsistance, aux forêts et au commerce* (The "organized chaos" in the forest and mining sector of the DRC, a threat to livelihoods, forests and trade). [online]. Available at: <http://www.greenpeace.org/africa/fr/Actualities/actualites/Le-Chaos-organise-dans-le-secteur-de-l'exploitation-forestiere-de-la-RD-Congo/> [Accessed 18 May 2016].
- World Bank (n.d.). *Classement de la transparence, de la responsabilisation et de la corruption dans le secteur public par l'EPIN* (Ranking of transparency, accountability and corruption in the public sector by CPIA). [online]. Available at: <http://donnees.banquemondiale.org/indicateur/IQ.CPA.TRAN.XQ> [Accessed 25 May 2016]
- World Bank (n.d.). *Corruption indicators in natural resource management in DRC*. [online]. Available at: <http://www.banquemondiale.org/fr/country/drc/overview>. [Accessed 25 May 2016]
- Transparency International (2016). *Corruption Perceptions Index 2015 – Democratic Republic of Congo*. [online]. Available at: <https://www.transparency.org/country/#COD> [Accessed 25 May 2016].
- World Bank (2014). *Worldwide Governance Indicators – Congo, Dem. Rep.* [online]. Available at: <http://info.worldbank.org/governance/wgi/c248.pdf> [Accessed 18 May 2016]
- 7sur7 (2016). Rapport 2015 de Transparency International: La RDC parmi les pays les plus corrompus (Transparency International Report 2015: The DRC among the most corrupt countries). *7sur7*. [online]. Available at: <http://7sur7.cd/new/rapport-2015-de-transparency-international-la-rdc-parmi-les-pays-les-plus-corrompus>. [Accessed 25 May 2016]

#### 1.4.5. Risk determination

##### *Overview of Legal Requirements*

The harvesting permit is delivered by the Provincial Governor, following instructions from the provincial administration in charge of forests, to any Congolese having harvesting activities of non-timber forest products for commercial or research purposes.

Regarding traditional logging, the Forest Code, Articles 111 to 113, requires the applicants first possess an approval from the forest-owning Provincial Governor prior to harvesting, then to finalise a written agreement with the relevant neighbouring communities before getting, depending on the situation, a traditional logging license or a fuel wood and charcoal harvesting license.

Regarding industrial timber logging, the forestry companies that can prove they have a forestry concession contract signed by the Congolese State may have delivered by the qualified authority, depending on the type of species which will be harvested, a regular logging license or a special logging permit if it concerns protected species covered by the CITES Convention.

##### *Description of Risk*

According to Greenpeace (2013) and Resource Extraction Monitoring (2012), almost all the traditional and industrial timber-logging companies harvest non-timber and timber forest products without paying any attention to getting the required license. This is true for harvesting, traditional logging, regular logging or special permits from the General Secretary or the Provincial Governor for the following reasons:

- No artisanal logging license has yet been delivered, similarly for the approval, partly because of the lack of templates for the logging license and the planned approval act described in the regulation texts quoted above;
- Lack of templates for license request forms (Article 16 of decree 035/2006);
- Former ministers have prevented the Province Governors from delivering this artisanal license;
- The regular logging license is not delivered in compliance with the implementation measures. Currently, for a limited period of time but in violation of Decree 035, it is the Minister who delivers the industrial wood logging authorizations;
- There are high levels of corruption in DRC. In 2015, Transparency International's Corruption Perceptions Index ranked DRC 147 out of 167 countries, and gave a score of 22 out of 100, with 100 being the least corrupt. The World Bank's Worldwide Governance Indicators scored DRC as <2 out of 10 for Control of Corruption, <1 for Rule of Law and <2 for Regulatory Quality.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.4.6. Risk designation and specification**

Specified risk

#### **1.4.7. Control measures and verifiers**

- Field visits to verify that maps are in compliance with reality
- Harvesting permits (license or similar legal document governing the harvesting of forest resources) shall exist.
- Harvesting limits shall be clearly defined based on maps and quantities.
- Stakeholder consultation shall confirm that harvesting permit has been issued according to the relevant laws and regulations by the legally designated competent authority.
- Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit.
- Field inspection shall confirm that information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation

In principle, the Forestry Administration's control and inspection reports of forest activities are kept in physical archives at the General Secretariat of the Ministry of Environment where they can be consulted on site. Some reports and documents are available on the same ministry's website, but obviously can only be accessed if the site is operational, which is often not the case and this complicates the availability of evidence for a purchaser located abroad. Nevertheless, the purchaser should try to get the following evidence of legality at the sources above:

- Reports of control missions of officials from the forestry administration
- Minutes of proceedings of officers' and officials under oath
- Minutes of proceedings of border control inspectors
- Technical reports from the Department of Forest Inventories and Forest Management (DIAF), mentioning the acquisition by the forestry logging company of the following legality documents: Concession contract, logging authorization as a harvesting permit, logging tax and fee payment note
- Independent Observer reports of forest controls
- NGOs monitoring reports on national, provincial and local civil society, as sometimes available on: [www.radiokapi.net/mot-cle/exploitation-forestiere](http://www.radiokapi.net/mot-cle/exploitation-forestiere).

## TAXES AND FEES

### 1.5. Payment of royalties and harvesting fees

*Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.*

#### 1.5.1. Applicable laws and regulations

- Forest Code – Articles 54, 81, and 102 to 125. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Law 04/015 dated 16 July 2004 establishing the classification of income generating actions. Available at: [http://www.droitcongolais.info/files/6.1.35.-Loi-du-16-juillet-2004\\_Actes-generateurs-des-recettes.pdf](http://www.droitcongolais.info/files/6.1.35.-Loi-du-16-juillet-2004_Actes-generateurs-des-recettes.pdf), as amended and supplemented by the provisions of law 05/008 dated 31 March 2005. Available at: <http://www.leganet.cd/Legislation/Dfiscal/L05.008.31.03.2005.nomenclature.htm>
- Decree 007/2002 dated 2 February 2002 – Article 3, concerning the payment method of debts to the State. Available at: <http://www.leganet.cd/Legislation/Dfiscal/Dettes/D.007.2002.02.02.2002.htm>
- Decree 076/CAB/MIN/ECO-FIN-2002 and BUD/2002 dated 11 February 2002 on application measurement of Decree 007/2002 dated 2 February 2002. Available at: <http://www.leganet.cd/Legislation/Dfiscal/Dettes/D.007.2002.02.02.2002.htm>
- Inter-Ministerial Decree 006/CAB/MIN/ECN-EF/2007. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AI.006.08.05.2007.htm>), and decree 004/CAB/MIN/FINANCES/2007. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AI.006.08.05.2007.htm> dated 8 May 2007 fixing the rates of rights, taxes and fees to be charged in forestry at the initiative of the Ministry of Environment.
- Arrêté ministériel n° 050/ CAB/MIN/EDD/01/03/BLN/2015 du 23/09/2015 relatif à exploitation forestière du bois d'œuvre. Available at: [http://www.greenpeace.org/africa/Global/africa/French/Forets/publications/AM\\_050\\_Exploitation\\_forestiere.pdf](http://www.greenpeace.org/africa/Global/africa/French/Forets/publications/AM_050_Exploitation_forestiere.pdf)

#### 1.5.2. Legal authority

- Ministry of Public Finance (Central Bank as custodian of the public treasury)
- Department of forest management
- Directorate General of state revenues (*Direction Générale des Recettes Administratives, Domaniales et de Participation*)
- Directorate General of Customs and Excise (collection agency)



- Fund for the Reconstruction of Forest Cover Provincial Coordination of the environment (collection agency)

#### 1.5.3. Legally required documents or records

- Proof of payment (receipt) of area tax
- Proof of payment (receipt) of Tax on the harvesting permit
- Proof of payment (receipt) of Reforestation tax
- Proof of payment (receipt) of Deforestation tax
- Proof of payment (receipt) of Harvesting tax
- Proof of payment (receipt) of Export tax
- Proof of payment (receipt) of Installment tax
- Proof of payment (receipt) of the logging tax
- Deposit slip and certificate of payment for the payment in cash of all taxes and royalties required by the Forest Code
- Debit notice and certificate of payment for the payment in writing
- Collection note or deposit signed by the contractor
- Deposit slip for the implementation tax and the annual compensatory tax payable at the latest by 30 June of each year
- Deposit slip and harvesting tax payable by the forestry company, at the rate of 1.25% per m<sup>3</sup> of the value of the species

#### 1.5.4. Sources of information

##### *Government sources*

- Rapport annuel, Banque Centrale du Congo. Available at:
- 2014: [http://www.bcc.cd/downloads/pub/rapann/Rapport\\_ann\\_2014\\_integral.pdf](http://www.bcc.cd/downloads/pub/rapann/Rapport_ann_2014_integral.pdf)
- 2013: [http://www.bcc.cd/downloads/pub/rapann/Rapport\\_ann\\_2013\\_integral.pdf](http://www.bcc.cd/downloads/pub/rapann/Rapport_ann_2013_integral.pdf)
- 2012: [http://www.bcc.cd/downloads/pub/rapann/Rapport\\_annuel\\_2012\\_bcc\\_RDC.pdf](http://www.bcc.cd/downloads/pub/rapann/Rapport_annuel_2012_bcc_RDC.pdf)
- Reports of the Department of Forest Management
- Report of the Directorate General of state revenues (*Direction Générale des Recettes Administratives, Domaniales et de Participation*)
- Reports of the General Inspection of Public Finance
- Banque Centrale de la RDC, (2016). *Secteur Bois: l'État floué! Des droits et taxes payés par les exploitants échappent au compte du Trésor* (Wood industry: State cheated! Of duties and taxes paid by operators outside the Treasury Account). *Media Congo*. [online]. Available at: <http://www.mediacongo.net/annonces/dpics/pdfs/article-actualite-16394.html>. [Accessed 2 July 2016]

### *Non-Government sources*

- Initiative pour la Transparence des Industries Extractives (ITIE) (2015). *Comite Executif de L'initiative pour la Transparence des Industries Extractives - Rapport ITIE RDC 2014* (Report of the Executive Committee of the Initiative for Transparency in the operation of Extractive Industries). [online]. Available at: [https://eiti.org/files/rapport\\_de\\_conciliation\\_itie\\_rdc\\_2014\\_-\\_final.pdf](https://eiti.org/files/rapport_de_conciliation_itie_rdc_2014_-_final.pdf) [Accessed 25 May 2016]
- FERN (2006). *Gouvernance forestière en République démocratique du Congo* (Forest Governance in the Democratic Republic of Congo). Available at: [http://www.fern.org/sites/fern.org/files/2006.11\\_Forest\\_Governance\\_in\\_RDC\\_fr.pdf](http://www.fern.org/sites/fern.org/files/2006.11_Forest_Governance_in_RDC_fr.pdf) [Accessed 25 May 2016]
- Global Witness (2015). *L'impunité exportée* (Impunity exported). [online]. Available at: [http://www.congoforum.be/upldocs/RDC\\_Bois\\_Export\\_Illegal\\_GW\\_15.pdf](http://www.congoforum.be/upldocs/RDC_Bois_Export_Illegal_GW_15.pdf) [Accessed 20 May 2016]
- Greenpeace (2013). *Le «Chaos organisé» dans le secteur de l'exploitation forestière de la RD Congo une menace aux moyens de subsistance, aux forêts et au commerce* (The "organized chaos" in the forest and mining sector of the DRC, a threat to livelihoods, forests and trade). [online]. Available at: <http://www.greenpeace.org/africa/fr/Actualities/actualites/Le-Chaos-organise-dans-le-secteur-de-l'exploitation-forestiere-de-la-RD-Congo/> [Accessed 18 May 2016].
- Lawson, S. (2014). *L'exploitation illégale des forêts en République démocratique du Congo* (The illegal exploitation of forests in the Democratic Republic of Congo). [online]. London: Chatham House. Available at: [http://indicators.chathamhouse.org/sites/files/reports/Lawson\\_DRC\\_PP\\_2014\\_FR.pdf](http://indicators.chathamhouse.org/sites/files/reports/Lawson_DRC_PP_2014_FR.pdf) [Accessed 2 July 2016]
- OI-FLEG RDC, (2013). Note de Briefing: Analyse de la Fiscalité Forestière (*Briefing Note: Analysis of Forestry Taxation*). Available at [http://www.observation-rdc.info/documents/REM\\_OIFLEG\\_2013\\_taxes\\_DRC.pdf](http://www.observation-rdc.info/documents/REM_OIFLEG_2013_taxes_DRC.pdf) [Accessed 2 July 2016]
- INITIATIVE POUR LA TRANSPARENCE DANS LES INDUSTRIES EXTRACTIVES (ITIE) (2015). *Rapport annual d'activités* (Annual report of activities). Available at: [https://eiti.org/files/drc\\_2014\\_aar.pdf](https://eiti.org/files/drc_2014_aar.pdf) [Accessed 2 July 2016]

#### **1.5.5. Risk determination**

##### *Overview of Legal Requirements*

- The tax on the fee of the forest area is set at \$0.5 per ha and is payable by forestry companies. It is the provincial financial authority that carries out scheduling operations and recovery;
- The stumpage fee of 1.25% per m<sup>3</sup> of the value of the harvested species is payable by artisanal loggers to the provincial financial authority who carries out scheduling operations and collection;
- The reforestation tax is payable at the rate of 4% of the FOB value per batch for artisanal loggers;

- Industrial forest concessionaires are not subject to the payment of the clearing tax;
- For the export tax or export duties, the rate is calculated based on the measurement of the relevant logs/sawn wood (10% for logs and sawn wood 5%) according to the rules of International Technical Tropical Timber Association (ATIBT), payable to the public services below:
  - The General Tax Directorate (DGI) determines the tax rates;
  - The Directorate General of Customs and Excise (DGDA) carries out the scheduling operations and collection of the tax; and
  - The Central Bank of Congo is the Cashier of the Congolese State.

#### *Description of Risk*

There is a very significant problem with the absence of appropriate billing and collection of forest taxes by the government and the non-payment by the companies (Lawson, 2014; Banque Centrale, 2016; ITIE, 2015). This is an indicator of the level of forest governance in the DRC. Lawson (2014) and the Chatham House have sought to obtain and analyse data on the amounts of taxes related to forests in the DRC that should have been paid, the amounts that have been charged, and the amounts that were actually paid in the last few years. However, as the only available data were the figures for the amounts paid, no meaningful analysis was possible.

The OI-FLEG RDC (2013) also attempted to analyse the degree of payment of forest-related taxes. Because the Independent Observer could obtain data relating to only three of the five major forest taxes, the analysis is incomplete. However, it demonstrates that significant potential tax revenue is lost. The OI-FLEG RDC (2013) concludes that a total of at least \$3,400,000 of assessed taxes was not levied in 2010, representing 28% of all amounts due. The figure for 2011 is lower (\$1 million, or 7% of the amounts due), but it is not known exactly to what extent this represents an improvement. The difference appears to be mainly caused by the fact that the government does not charge the entire amount due; rather than defaults on the part of companies. For example, OI-FLEG RDC found that the area tax is imposed only for the productive area of each concession while the law provides for it to be imposed for the whole area. The logging tax, on the other hand, is calculated from a fixed rate per cubic metre, while the law says it should be a percentage of the value of each species.

Calculations by the OI-FLEG RDC (2013) relating to uncollected taxes are based on amounts owed for the volume harvested in legally operated industrial concessions. Since the actual harvested volumes are greater than the declared volumes, the revenue collection rate is low. The sampling by OI-FLEG RDC of data for 85 logging operations by 20 companies reveals that actually recorded harvests exceed allowable harvest by 19%, which represents an unauthorised surplus crop of some 39,000 m<sup>3</sup>. Most surpluses relate to three main commercial species: Sapele, Sipo and Iroko, and only three of the 20 companies. The OI-FLEG RDC also found that no tax of the harvesting permit and, logging tax or reforestation tax was paid on any of the large volumes of recent illegal artisanal semi-industrial crop.

However, Ministerial Decree 050 on forest management resolved the questions around the area tax. Calculation and payment of the area tax is now under control and is considered to be low risk.

#### *Risk Conclusion*

The legality risks with regards to the area tax are low. For other taxes, there is a specified risk because identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.5.6. Risk designation and specification**

Area tax risk: Low risk

Other taxes: Specified risk

#### **1.5.7. Control measures and verifiers**

- Receipts shall exist for payments of harvesting-related royalties, taxes, harvesting fees and other charges.
- Volumes, species and qualities given in sales and transport documents shall match the fees paid.
- Classification of species, volumes and qualities shall match the royalties and fees paid.
- Deposit slip and certificate of payment for the payment in cash of all taxes and royalties required by the Forest Code
- Debit notice and certificate of payment for the payment in writing
- Collection note or deposit signed by the contractor
- Deposit slip for the implementation tax and the annual compensatory tax payable at the latest by 30 June of each year
- Deposit slip and harvesting tax payable by the forestry company, at the rate of 1.25% per m<sup>3</sup> of the value of the species

### **1.6. Value added taxes and other sales taxes**

*Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.*

#### **1.6.1. Applicable laws and regulations**

- Forest Code – Articles 120 to 125. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Law 004/2003 dated 13 March 2003 – Article 7, on reforms of tax procedures. Available at: <http://www.leganet.cd/Legislation/Dfiscal/Loi004.2003.13.03.2003.htm>

- Regulations on currency exchange – Articles 9 and 13. Available at: <http://www.leganet.cd/Legislation/Dfiscal/Loi13005.11.02.2014.htm>

#### **1.6.2. Legal authority**

- Ministry of Finance
- General Secretary for the Environment
- Department of forest inventories and forest management
- Provincial Directorate of the Congolese Control Office
- General Tax Directorate (DGI)
- Directorate General of Customs and Excise (DGDA)
- Central Bank of Congo as Cashier of the Congolese State

#### **1.6.3. Legally required documents or records**

- Sales contract
- Purchase, sale and export authorization
- Note of collected export tax
- Export verification certificate
- The export declaration
- Note of collected VAT

#### **1.6.4. Sources of information**

##### *Government sources*

- Ministère du budget (2014). *Rapport annuel 2013* (The annual report of the Central Bank of Congo 2013). [online]. Available at: [http://www.budget.gouv.cd/2012/rapport\\_annuel2013/rapport\\_annuel2013.pdf](http://www.budget.gouv.cd/2012/rapport_annuel2013/rapport_annuel2013.pdf) [Accessed 25 May 2016]
- The annual report of the Department of Forest Management published in 2015 (not available online)
- Banque Centrale de la RDC, (2016). *Secteur Bois: l'État floué! Des droits et taxes payés par les exploitants échappent au compte du Trésor* (Wood industry: State cheated! Of duties and taxes paid by operators outside the Treasury Account). *Media Congo*. [online]. Available at: <http://www.mediacongo.net/annonces/dpics/pdfs/article-actualite-16394.html>. [Accessed 2 July 2016]

##### *Non-Government sources*

- Resource Extraction Monitoring (REM) (2013). *Final Report - Independent Monitoring of the implementation of the Forest Law and Governance (FLEG) Democratic Republic of Congo*. [online]. Available at: <http://observation->

[rdc.info/documents/Rapport\\_annuel\\_OIFLEG\\_RDC\\_REM\\_2013.pdf](http://rdc.info/documents/Rapport_annuel_OIFLEG_RDC_REM_2013.pdf) [Accessed 18 May 2016].

- Réseau Ressources Naturelles (2012). *Guide d'accompagnement et de sensibilisation*. [online]. Available at: <http://www.transparenceforestiere.info/cms/file/267> [Accessed 25 May 2016]
- Lawson, S. (2014). *L'exploitation illégale des forêts en République démocratique du Congo* (The illegal exploitation of forests in the Democratic Republic of Congo). [online]. London: Chatham House. Available at: [http://indicators.chathamhouse.org/sites/files/reports/Lawson\\_DRC\\_PP\\_2014\\_FR.pdf](http://indicators.chathamhouse.org/sites/files/reports/Lawson_DRC_PP_2014_FR.pdf) [Accessed 2 July 2016]
- OI-FLEG RDC, (2013). *Note de Briefing: Analyse de la Fiscalité Forestière* (Briefing Note: Analysis of Forestry Taxation). Available at: [http://www.observation-rdc.info/documents/REM\\_OIFLEG\\_2013\\_taxes\\_DRC.pdf](http://www.observation-rdc.info/documents/REM_OIFLEG_2013_taxes_DRC.pdf) [Accessed 2 July 2016]
- INITIATIVE POUR LA TRANSPARENCE DANS LES INDUSTRIES EXTRACTIVES (ITIE) (2015). *Rapport annuel d'activités* (Annual report of activities). Available at: [https://eiti.org/files/drc\\_2014\\_aar.pdf](https://eiti.org/files/drc_2014_aar.pdf) [Accessed 2 July 2016]

#### 1.6.5. Risk determination

##### *Overview of Legal Requirements*

Legal requirements to ensure fair market price:

The Department of Forest Management (DGF) verifies that the price fixed by the logger for their timber corresponds to the Mercurial (report of official selling rates on public markets) published by the Office Congolais de Contrôle for the sale of Congolese timber in other countries. The Mercurial is a price list set by the Public Administration through the Congolese Control Office (OCC) for each amount of timber destined for export. Forestry companies with a wood export authorisation must comply with this price list. Customs officials verify conformance at the border.

The forestry company addresses a request to the Ministry in charge of Forests and attaches in annex the sales contract, validated by the DGF, in order to obtain an authorisation to purchase, sell and export wood. The forestry company also addresses a request to the Provincial Directorate of the Congolese Control Office, copied to the Director General, to declare its merchandise, solicit a control visit by these authorities and, if necessary, solicit an export verification certificate.

Legal requirements with regards to the tax:

The export tax rate is calculated based on the measurement of the logs under bark or sapwood, in accordance with the rules of the International Technical Tropical Timber Association (ATIBT). This tax is payable according to the process below:

- The General Tax Directorate (DGI) calculates and liquidates the amounts of these taxes;
- The Directorate General of Customs and Excise (DGDA) carries out the scheduling operations and collection of said tax;

- The Central Bank of Congo cashes in the tax, as Cashier of the Congolese State.

#### *Description of Risk*

A significant portion of Congolese timber sold in other countries comes from illegal logging, without proof of a contract to purchase and sell; this is notably the case with 'artisanal' logging and a few forest companies (REM, 2013). As explained in the legality overview at the beginning of this analysis, much of the Congolese wood destined for export is illegal.

Resource Extraction Monitoring (REM, 2013) reports that the price used for the sale of timber by the loggers is often lower than the price prescribed by law through the Mercurial (report of official selling rates on public markets), and this always leads to tax evasion. Control by customs officials is lacking or circumvented through bribery.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.6.6. Risk designation and specification**

Specified risk

#### **1.6.7. Control measures and verifiers**

- Purchase, sale and export authorization of timber issued by the Ministry in charge of Forests
- Contract validation report of timber purchase and sale from the Department of Forest Management
- Proof of timber export certificate
- Note of collected VAT

### **1.7. Income and profit taxes**

*Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.*

#### **1.7.1. Applicable laws and regulations**

- General Code of Taxes updated 15 March 2015. Available at: [www.droit-afrique.com/boutique/rdc-code-general-des-impots/](http://www.droit-afrique.com/boutique/rdc-code-general-des-impots/)
- Forest Code – Articles 120 to 125. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Law 004/2003 dated 13 March 2003 – Article 7, on reforms of tax procedures. Available at: <http://www.leganet.cd/Legislation/Dfiscal/Loi004.2003.13.03.2003.htm>

- Inter-Ministerial Decree 003 Cab/Min/ECN-T/2010 and Decree 029 Cab/Min/FINANCES 2010 dated 26 April 2010 fixing the rates of rights, taxes and fees to be charged in forestry at the initiative of the Ministry of Environment

#### 1.7.2. Legal authority

- Ministry of Finance
- General Secretary for the Environment
- Department of Forest Management
- Directorate General of Taxes

#### 1.7.3. Legally required documents or records

- Debit note of the fee on forest area
- Note of fee collection on forest area
- Debit note of the export tax
- Note of collection of export tax
- Debit note of the added tax (VAT)
- Note of collected VAT

#### 1.7.4. Sources of information

##### *Government sources*

- Ministère du budget (2014). *Rapport annuel 2013* (The annual report of the Central Bank of Congo 2013). [online]. Available at: [http://www.budget.gouv.cd/2012/rapport\\_annuel2013/rapport\\_annuel2013.pdf](http://www.budget.gouv.cd/2012/rapport_annuel2013/rapport_annuel2013.pdf) [Accessed 25 May 2016]
- Annual report of the Department of Forest Management published in 2015
- Direction Générale des Finances Publiques (2014). *Rapport Annuel 2014* (Annual report of the Directorate General of Taxes). [online]. Available at: [http://www.economie.gouv.fr/files/files/directions\\_services/dgfip/Rapport/2014/RA\\_2014\\_1805\\_inter.pdf](http://www.economie.gouv.fr/files/files/directions_services/dgfip/Rapport/2014/RA_2014_1805_inter.pdf)

##### *Non-Government sources*

- Resource Extraction Monitoring (2013). *Final Report - Independent Monitoring the implementation of the Forest Law and Governance (FLEG) Democratic Republic of Congo*. Available at: [http://observation-rdc.info/documents/Rapport\\_annuel\\_OIFLEG\\_RDC\\_REM\\_2013.pdf](http://observation-rdc.info/documents/Rapport_annuel_OIFLEG_RDC_REM_2013.pdf) [Accessed 18 May 2016]
- Réseau Ressources Naturelles (2012). *Guide d'accompagnement et de sensibilisation*. Available at: <http://www.transparenceforestiere.info/cms/file/267> [Accessed 25 May 2016]



### **1.7.5. Risk determination**

#### *Overview of Legal Requirements*

The Congolese fiscal system is declarative, in the sense that each forestry company that owns a tax base or taxable base is required to declare all of their revenues from their commercial activity during that fiscal year. The taxable global net revenue of the forest companies consists of the total of the net revenue of the following categories:

1. Property income
2. Profits from industrial, commercial and small-scale activities
3. Treatments, salaries, allowances, honoraria, pensions and life annuities
4. Profits from non-commercial professions and employee incomes
5. Investment income
6. Capital gains by individual
7. Profits from farming

The risk analysis for this criterion will focus on point 2 and 4 above.

#### *Description of Risk*

Weaknesses in control mechanisms by fiscal, forestry and customs authorities result in many loggers engaging in false tax declarations. This leads to tax evasion in addition to the one caused by the volumes of illegally harvested timber (Réseau Ressources Naturelles, 2012).

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

### **1.7.6. Risk designation and specification**

Specified risk

### **1.7.7. Control measures and verifiers**

- Consultation with financial authority to verify that all required income and profit taxes have been paid
- Debit note of the fee on forest area
- Note of fee collection on forest area
- Debit note of the export tax
- Note of collection of export tax
- Debit note of the added tax (VAT)
- Note of collected VAT

## TIMBER HARVESTING ACTIVITIES

### 1.8. Timber harvesting regulations

*Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically, this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.*

#### 1.8.1. Applicable laws and regulations

- Forest Code – Articles 96, 97, 98, 99, 102, 103, 105 and 109. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Ministerial Decree 036/CAB/MIN/ECN-EF/2006 dated 5 October 2006 setting the elaboration, the approval and the implementation procedures regarding the management plans of timber production forestry concessions, Articles 47, 48, 49, 50 and 51. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.036.05.10.06.pdf>
- Ministerial Decree 0011/Cab/MIN/ECN-EF/2007 concerning the regulation for authorization regarding industrial harvesting of timber and for timber purchase, sale and export. Available at: <http://droit-afrique.com/upload/doc/rdc/RDC-Arrete-2007-11-reglementation-coupe-industrielle-du-bois.pdf>
- Ministerial Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 regarding logging, Article 35. Available at: <http://fr.calameo.com/read/000963852b9ac328e584e>
- Ministerial Decree 028/CAB/MIN/ECN-TI 27/JEB/08 dated 7 August 2008 setting contract templates for forestry products logging concessions and the related specifications, Article 32. Available at: [http://pfbc-cbfp.org/docs/news/mars\\_avril2009/atelier\\_conversiontitreskinhasa/Arrete%20N%C2%B0028\\_Cahier%20des%20charges.pdf](http://pfbc-cbfp.org/docs/news/mars_avril2009/atelier_conversiontitreskinhasa/Arrete%20N%C2%B0028_Cahier%20des%20charges.pdf)
- Ministerial Decree 021/CAB/MIN/ECN-T/15/JEB/2008 dated 7 August 2008 regarding standards related to facilities to set up within the forestry concessions. Available at: <http://fr.calameo.com/read/000963852ddc72925b23b>
- Operational guide setting standards for reduced impact logging. Available at: <http://docplayer.fr/12906488-Normes-d-exploitation-forestiere-a-impact-reduit-efir.html>
- Operational guide setting the quinquennial management plan framework published by the Ministry in charge of forests. Available at: <http://docplayer.fr/7281546-Canevas-du-plan-de-gestion-quinquennal.html>

### 1.8.2. Legal authority

- General Secretary for the Ministry in charge of forests
- Department of Forest Inventories and Forest Management (DIAF)
- Department of Control and Verification of Forest Operations (DCVI)

### 1.8.3. Legally required documents or records

- Forest Management Plan
- Logging Register held by the company
- Annual operation plan approved by the administration
- List of species subject to specific management

### 1.8.4. Sources of Information

#### *Government sources*

- The 2013 SODEFOR forestry company quarterly reports for forestry production
- The 2014 report of the officers' mission from the Department of Control and Verification of Forest Operations
- Annual Allowable Harvesting Map of the SIFORCO Society locating the main roads

#### *Non-Government sources*

- Resource Extraction Monitoring (2013). *Final Report - Independent Monitoring the implementation of the Forest Law and Governance (FLEG) Democratic Republic of Congo*. [online]. Available at: [http://observation-rdc.info/documents/Rapport\\_annuel\\_OIFLEG\\_RDC\\_REM\\_2013.pdf](http://observation-rdc.info/documents/Rapport_annuel_OIFLEG_RDC_REM_2013.pdf) [Accessed 18 May 2016].
- Réseau Ressources Naturelles (2012). *Guide d'accompagnement et de sensibilisation*. [online]. Available at: <http://www.transparenceforestiere.info/cms/file/267>. [Accessed 25 May 2016]
- Transparency International (2016). *Corruption Perceptions Index 2015 – Democratic Republic of Congo*. [online]. Available at: <https://www.transparency.org/country/#COD> [Accessed 18 May 2016].
- World Bank (2014). *Worldwide Governance Indicators – Congo, Dem. Rep.* [online]. Available at: <http://info.worldbank.org/governance/wqi/c248.pdf> [Accessed 18 May 2016].
- FERN (2006). *Gouvernance forestière en République démocratique du Congo* (Forest Governance in the Democratic Republic of Congo). Available at: [http://www.fern.org/sites/fern.org/files/2006.11\\_Forest\\_Governance\\_in\\_RDC\\_fr.pdf](http://www.fern.org/sites/fern.org/files/2006.11_Forest_Governance_in_RDC_fr.pdf) [Accessed 25 May 2016]
- Global Witness (2015). *L'impunité exportée* (Impunity exported). [online]. Available at: [http://www.congoforum.be/upldocs/RDC\\_Bois\\_Export\\_Illegal\\_GW\\_15.pdf](http://www.congoforum.be/upldocs/RDC_Bois_Export_Illegal_GW_15.pdf) [Accessed 20 May 2016]

- Hamisi, B. B. (2009). *Problématique de l'exploitation forestière en RDC*. (Problematic Forest exploitation in DRC). [online]. Université de Kinshasa - Graduat 2009. Available at: [http://www.memoireonline.com/10/12/6210/m\\_Problematique-de-l-exploitation-forestiere-en-RDC8.html](http://www.memoireonline.com/10/12/6210/m_Problematique-de-l-exploitation-forestiere-en-RDC8.html) [Accessed 4 November 2016]

#### **1.8.5. Risk determination**

##### *Overview of Legal Requirements*

The law requires the operator to:

- Develop a management plan with a road network for the hauling and transport of forest products. This road network must be approved by the forestry administration;
- Respect the prescribed minimum age and diameter of trees during harvesting operations;
- Comply with rules on maintenance of records on production and harvesting of timber;
- Respect rules on marking and hauling timber;
- Process wood in log yards and processing plants.

The dimensions of the various roads and forest paths constructed by the companies must comply with the technical standards established by the forestry administration.

##### *Description of Risk*

Due to the increasing corruption in DRC (the 2015 Transparency International's Corruption Perceptions Index ranked DRC 147 out of 167 countries, and gave a score of 22 out of 100, with 100 being the least corrupt; and the World Bank's Worldwide Governance Indicators scored DRC as <2 out of 10 for Control of Corruption), a lot of forestry companies are logging without having shown a management plan with a logging trails network for forestry products approved by the forestry administration. The minimum timber harvesting diameters are not respected during the logging operations; and the dimensions of the different logging roads and trails created by the companies are not in compliance with the technical standards set up by the forestry administration (FERN 2006).

##### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.8.6. Risk designation and specification**

Specified risk

#### **1.8.7. Control measures and verifiers**

- Harvesting shall be conducted within the authorized boundaries of the FMU.
- Harvesting shall not take place in areas where harvesting is legally prohibited.

- Tree species or selected trees found within the FMU for which felling is prohibited shall be listed in operational plans.
- Harvesting restrictions shall be observed in the field.
- Tree species or selected trees found within the FMU for which felling is prohibited shall be marked in the field.
- One way for buyers to verify that logging is legal is by requiring the supplier to present its annual management plan with a map identifying the annual cutting area and location of the main roads of the company. Also, purchasers can request evidence of:
  - Forest management plan approved by the Forest Administration
  - Quarterly reported timber volume approved by the Competent Authority
  - Main roads network planning and mapping in the quinquennial units and in the management plan
  - Secondary network planning on the basis of the prospecting map approved by the reports from the Competent Forest Authorities

## 1.9. Protected sites and species

*International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.*

### 1.9.1. Applicable laws and regulations

- Forest Code – Articles 49, 50 and 51. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Ministerial Decree CAB/MIN/AF.F-E.T/276/2002 dated 5 November 2002 defining the protected forest species, Articles 1, 2, 3 and 4. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.276.2002.05.11.2002.htm>
- Ministerial Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 concerning forest harvesting, Article 35. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.035.05.10.06.pdf>
- Convention on International Trade in Endangered Species of Wild Fauna and Flora threatened with extinction (signed in Washington on 3 March 1973). Available at: <https://cites.org/fra/disc/text.php>
- Arrêté ministériel n° 050/CAB/MIN/EDD/01/03/BLN/2015 du 23/09/2015 relatif à exploitation forestière du bois d'œuvre. Available at: [http://www.greenpeace.org/africa/Global/africa/French/Forets/publications/AM\\_050\\_Exploitation\\_forestiere.pdf](http://www.greenpeace.org/africa/Global/africa/French/Forets/publications/AM_050_Exploitation_forestiere.pdf)

### 1.9.2. Legal authority

- General Secretary in charge of forests
- Department of Forest Management
- Congolese Institute of Nature Conservation (ICCN)

### 1.9.3. Legally required documents or records

- Permis de Coupe Ordinaire
- Permis de Coupe Artisanale
- Permis de Coupe de bois de chauffe et de carbonisation (Logging permit for firewood and charcoal)
- Permis de Récolte
- Permis spécial de Coupe
- Permis spécial de Récolte (Special harvesting permit)
- CITES permit for export of protected species

### 1.9.4. Sources of Information

#### *Government sources*

- Ministry of Forestry (2002). *List of species subject to a specific management established by the Secretariat General of the Ministry of Forestry*. [online]. This list is in appendix I of l'arrêté n°CAB/MIN/AF.F-E.T/276/2002 du 05 novembre 2002 déterminant les essences forestières protégées. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.276.2002.05.11.2002.htm>
- Direction de la Gestion Forestière (2014). *Déclarations trimestrielles des volumes des bois déposées à la Direction de la Gestion Forestière* (Quarterly declarations of timber volumes deposited at the Forest Management Branch for 2013 and 2014).
- Institut Congolais de Conservation de la Nature (ICCN) (2015). *Rapport Annuel 2015* (Annual report 2015).

#### *Non-Government sources*

- Réseau Ressources Naturelles (2012). *Rapport annuel*. [online]. Available at: [http://www.reseaurnrdc.org/publications\\_rrn.php](http://www.reseaurnrdc.org/publications_rrn.php) (specific page of publication was broken when visited on July 2 2016)
- Oijen D. V. (2014). *Les Arbres De La RDC Eux Aussi Menacés* (Forests in the DR Care also Threatened). [online]. Greenpeace Belgique. Available at: <http://www.greenpeace.org/belgium/fr/vous-informer/forets/blog/les-arbres-de-la-rdc-eux-aussi-menacs/blog/49994/> [Accessed 27 May 2016]
- Katshunga, D., A. Mpoyi, & C. Adebu (2011). *Analyses et observations du secteur forestier en 2010* (Analysis and observations of the Forestry sector in 2010).

### 1.9.5. Risk determination

#### *Overview of Legal Requirements*

In the DRC, Afrormosia and Wenge are the two most sought after species subject to a specific protection. Logging of these protected species, or any other species on the protected species list, is mentioned in Annex I of the Ministerial Decree quoted above (n° CAB/MIN/AF.F-E.T/276/2002 du 05 November 2002 déterminant les essences forestières protégées). Harvesting of these species requires acquisition of a special logging permit or a special logging authorisation delivered by the Secretary General in charge of forests.

Decree 050 on Logging authorises the Minister of Forests to issue industrial and special harvesting permits to harvest Afrormosia. This protected species requires a CITES certificate for export, otherwise the timber cannot leave the country.

The law forbids any commercial logging or harvesting in protected or conservation areas, unless it is proven that it is for scientific or cultural purposes set up by legally authorised organisations. In this case, this special permit is issued to operators. Otherwise the conservation areas cannot be subject to any other logging or harvesting license. There is no other special harvesting permit within these sites.

#### *Description of Risk*

A lot of logging companies engage in harvesting of protected forestry species and in hunting endangered wildlife species without acquiring a special logging permit or a special logging authorisation from the competent authority (the Secretary General in charge of forests; "Les Arbres De La RDC Eux Aussi Menacés", 2016). Consequently, these protected species are constantly threatened.

In the DRC, we can witness illegal logging or harvesting of protected species even in the conservation areas; this is due to artisanal loggers, clandestine loggers and members of the local communities (Katshunga et. al, 2011). However, the forestry administration itself is maintaining this status through the following (based on expensive field experience by the author, Katshunga, 2016):

- Lack of official templates for the special permit for logging of protected species;
- The exceptional aspect of such a permit should warrant that it be delivered by the Minister in charge of forests. Unfortunately, the law gives this power to the Secretary General in charge of forests. Unfortunately, the Secretary General does not embody the best authority to defend the national policies regarding protected species. This means the special permit may be issued more often than it should;
- The special permit for logging of protected species does not include export. The logging company who wishes to export a protected species has to acquire a CITES license for export of protected species, which is very difficult to get.

From this, we can conclude that the difficulty in obtaining CITES licenses encourages the export of protected species without legal permits or with a forged permit.

There is complacency and corruption in the public service responsible for issuing the industrial and special harvesting permit for Afrormosia, mentioned in Decree 050. The DRC is in the process of setting up a database to track exploitation of Afrormosia in

accordance with the resolution of the 66th meeting of the CITES Plants Committee (which took place in Georgia in October 2015), and the Agreement of Trade Not Detrimental 2015 updated and approved in 2016 by the CITES Secretariat. However, this database is not yet in place at the time of writing of this risk analysis.

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.9.6. Risk designation and specification**

Specified risk

#### **1.9.7. Control measures and verifiers**

- All legally protected areas (including species habitats) shall be included in the management plan or related documentation if required by the legislation.
- Legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed.
- Nature protection regulations such as protected areas, set-aside areas, protected species and hunting controls
- A timber buyer willing to buy legal Arfrormosia, Wenge (*Millettia laurentii*) or timber from any other kind of species present on the list of protected species coming from the DRC, should check that they are covered by a special logging permit and a CITES license. If it is not the case, the timber would then very probably come from illegal logging. At the time of writing this report, Wenge was not on the CITES list yet, so only a special logging permit is needed for now. The buyer should also make sure that the timber is not coming from protected areas (conservation sites), since there is no case in which a CITES license or a special logging permit could be delivered for any species inside these forests
- Quarterly timber volume reports
- Report from the Congolese Institute of Nature Conservation

### **1.10. Environmental requirements**

*National and sub-national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.*

#### **1.10.1. Applicable laws and regulations**



- Law 11/009 dated 9 July 2011 on fundamental principles relating to environmental protection. Available at: [http://cd.chm-cbd.net/implementation/foi320521/loi-portant-princ-fond-sur-l-env\\_2011.pdf](http://cd.chm-cbd.net/implementation/foi320521/loi-portant-princ-fond-sur-l-env_2011.pdf)
- Forest Code – Articles 45, 46, 47, 48, 49, 50, 51, 52, 53 et 54. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Decree 14/019 dated 2 August 2014 laying down the operating rules of procedural mechanisms of environmental protection. 14/019 du 02 août 2014 fixant les règles de fonctionnement des mécanismes procéduraux de la protection de l'environnement
- Ministerial Decree 028/CAB/MIN/ECN-TI 27/JEB/08 dated 7 August 2008 laying down contract templates for forest operating concessions and specifications relating thereto, Article 10 of Annex 1, al. 3, point 3 and Article 14 of Annex 2. Available at: [http://pfb-cbfp.org/docs/news/mars\\_avril2009/atelier\\_conversiontitreskinshasa/Arrete%20N%C2%B0028\\_Cahier%20des%20charges.pdf](http://pfb-cbfp.org/docs/news/mars_avril2009/atelier_conversiontitreskinshasa/Arrete%20N%C2%B0028_Cahier%20des%20charges.pdf)
- Ministerial Decree 102/CAB/MIN/ECN-T/15/JEB/09 laying down the rules and procedures of forest control, Articles 39, 40, 41, 42 and 52. Available at: <http://fr.calameo.com/read/000963852ddc72925b23b>
- Ministerial Decree 021/CAB/MIN/ECN-T/15/JEB/2008 dated 7 August 2008 on standards for facilities to implement in forest concessions, Articles 1, 2 and 17. Available at: <http://fr.calameo.com/read/000963852ddc72925b23b>
- Operational Guide setting the reduced impact logging standards issued by the Ministry in charge of Forests. Available at: <http://docplayer.fr/12906488-Normes-d-exploitation-forestiere-a-impact-reduit-efir.html>

#### 1.10.2. Legal authority

- Ministry of Environment
- Secretary General for the Environment and Forests
- Provincial Governor
- Forest inspectors

#### 1.10.3. Legally required documents or records

- The environmental and social management plan must be approved by the ministry of environment when it is an ordinary timber license issued at a national or central level. That same plan is approved by the Provincial Governor for artisanal logging permits issued at the provincial level.
- Copies of environmental impact studies
- Documents approved by the aforementioned national and provincial authorities certifying the implementation of measures of environmental protection and biodiversity

- Corporate environmental policy
- Corporate rules on hunting, consumption and transportation of bush meat

#### 1.10.4. Sources of information

##### *Non-Government sources*

- Resource Extraction Monitoring (2013). *Final Report - Independent Monitoring the implementation of the Forest Law and Governance (FLEG) Democratic Republic of Congo*. Available at: [http://observation-rdc.info/documents/Rapport\\_annuel\\_OIFLEG\\_RDC\\_REM\\_2013.pdf](http://observation-rdc.info/documents/Rapport_annuel_OIFLEG_RDC_REM_2013.pdf) [Accessed 18 May 2016]
- Katshunga, Don de Dieu, (2011). *Analyses et critiques de la gouvernance forestière en RDC, juin 2011* (Critical analysis of Forest Governance in the DRC, June 2011). Not available online.
- Oijen D. V. (2014). *Les Arbres De La RDC Eux Aussi Menacés* (Forests in the DR Care also Threatened). [online]. Greenpeace Belgique. Available at: <http://www.greenpeace.org/belgium/fr/vous-informer/forets/blog/les-arbres-de-la-rdc-eux-aussi-menacs/blog/49994/> [Accessed 27 May 2016]

#### 1.10.5. Risk determination

##### *Overview of Legal Requirements*

The law requires the management plan to include an environmental and social management plan. This environmental management plan must identify how and what provisions for environmental protection and biodiversity will be applied, including measures for the establishment of infrastructure.

The environmental management plan includes an environmental assessment of the possible impact of roads and other infrastructure on the ecosystem and biodiversity, and indicates preventative or mitigation measures to be implemented. The plan also documents the existence of all adjacent forest concessions and the impact on their environment.

The law requires the company to have an environmental service (or to contract out these services). The environmental service of the forestry company must consult with local residents in order to reach agreements, including on the boundaries of the buffer zone, the layout of forest access roads, social obligations, including the establishment of community infrastructure, setting enclaves where local residents can exercise their rights to use and how to exercise them.

##### *Description of Risk*

According to Katshunga (2011), while an increasing number of forestry companies are required to produce environmental and social impact assessments as per the legal requirements and as per their forest management plans, a lot of companies continue to log without having completed them. The ones that have provided such an environmental management plan are not always complying with the provisions adopted in it. The impact studies and management plan are often seen as no more than a necessary step to obtaining a license to harvest. Once that license is granted, the plan

is not necessarily implemented and forest authorities lack the capacity to control and enforce its implementation.

The legal sanctions for not respecting the concession contract clauses and/or the management plan are not always enforced. Those would normally include:

- title forfeiture (as per Decree 028, Articles 23; 24 and 25 from Annex 1);
- fines ranging from 200,000 to 2,000,000 Congolese francs;
- the requirement for the company to execute the management operations as planned in the management plan.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.10.6. Risk designation and specification**

Specified risk

#### **1.10.7. Control measures and verifiers**

- Environmental and/or Social Impact Assessments shall be in place and approved by the legally competent authority if legally required.
- Requirements for environmental monitoring shall be observed.
- Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc.
- The forestry company must prove the existence of an Environmental and Social Management Plan approved by the MECNT if it has a timber license as a commercial operation, and by the provincial governor, if it has an artisanal logging permit;
- The forestry company must prove the existence of an approval decree of its environmental and social management plan signed by the provincial governor;
- The forestry company must prove the completion of the socio-economic assessment relating to local communities and / or indigenous peoples;
- The forestry companies must provide evidence that the environmental impact assessment has been completed.

#### **1.11. Health and safety**

*Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.*

#### 1.11.1. Applicable laws and regulations

- Congolese Code of Labour – Articles 160, 161, 163, 164, 165, 167 and 168. Available at [http://www.ilo.org/wcmsp5/groups/public/---africa/---ro-addis\\_ababa/--ilo-kinshasa/documents/genericdocument/wcms\\_323484.pdf](http://www.ilo.org/wcmsp5/groups/public/---africa/---ro-addis_ababa/--ilo-kinshasa/documents/genericdocument/wcms_323484.pdf)
- Decrees 41 to 48 dated 12 February 1953 on dangerous, unhealthy or troublesome establishments, Articles 3, 4, 5 and 10, National Collective Convention of Agriculture and Forestry operations, Article 40.

#### 1.11.2. Legal authority

- Work inspector
- Committee of Health and Safety
- Forestry Inspector of the National Labour Inspectorate and control officials under oath

#### 1.11.3. Legally required documents or records

- Certificate of compliance with health and safety conditions for employees
- Logging permits validated by the Labour Inspectorate

#### 1.11.4. Sources of information

##### *Government sources*

- Observatoire de la Gouvernance Forestière (2014). *Rapport de mission terrain No 3. Observation indépendante de la mise en pallication de la loi forestière et de la gouvernance (OI-FLEG)* (Mission report no. 3 – Independent field observation of the implmenetation of the Forest Law and Governance). [online]. Available at: [http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport\\_OIFLEG\\_-Mission-Bandundu\\_2014.pdf](http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport_OIFLEG_-Mission-Bandundu_2014.pdf) [Accessed 27 May 2016].

##### *Non-Government sources*

- Observateur Indépendant FLEG - RDC (2013). *Stratégie de la société civile sur l'observation indépendante de la législation et de la gouvernance forestière (OI-FLEG) en RDC* (Civil Society strategy on independent monitoring of legislation and forest governance (FLEG) in the DRC). [online]. Available at: [http://www.observation-rdc.info/documents/RDC\\_strategie\\_OI\\_2013.pdf](http://www.observation-rdc.info/documents/RDC_strategie_OI_2013.pdf) [Accessed 24 May 2016]

#### 1.11.5. Risk determination

##### *Overview of Legal Requirements*

The law requires the existence of a Committee of Health and Safety within each forestry company, whose main mission is to ensure compliance with health and safety conditions at work to:

- 1) prevent accidents during forest operations;

- 2) fight against occupational diseases;
- 3) create healthy working conditions;
- 4) address burnout;
- 5) adapt the forestry logging work to man;
- 6) manage and fight against endemic diseases for Community Health in a working environment.

The company ensures occupational health services by hiring a company doctor.

Security obligations consist for forestry companies in providing their employees with appropriate safety equipment for forestry activities in the forest.

Source: Articles 159, 161, 163, 164, 167 and 168 of the Congolese code of Labour.

#### *Description of Risk*

According to the author of this risk analysis (Katshunga, 2016), and based on his extensive field experience, some forest companies comply with legal requirements on health and safety by providing their employees with the appropriate equipment for forestry activities in the forest, while others fail to do so, exposing their workers to all the risks associated with occupational accidents in the forestry sector. According to Observateur Indépendant FLEG - RDC (2013), this situation is exacerbated by the State itself, through the weakness of enforcement of legal and regulatory provisions combined with poor governance in the forestry sector. Thus the competent authority issues the operating license for loggers without regard to their compliance with the legal requirements relating to workers' health and safety.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.11.6. Risk designation and specification**

Specified risk

#### **1.11.7. Control measures and verifiers**

- All safety and health regulations shall be followed and all required safety equipment shall be used
- Occupational health and safety requirements shall be observed by all personnel involved in harvesting activities.
- Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organization.
- All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable)

The supplier must be able to provide the following:

- The annual activity report from the company's Committee on health and safety, approved by the forestry authorities;
- The Labour Inspectorate report must verify the company's conformance with health and safety regulations;
- A mission report of the administration officers on the inspections above;
- Minutes of proceedings of officers' and officials under oath related to health and safety.

While all these documents can be transmitted to the purchaser, a field inspection by the supplier is also a good way of verifying workers' health and safety conditions.

## 1.12. Legal employment

*Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.*

### 1.12.1. Applicable laws and regulations

- Code of Labour – Articles 6, 44, 47, 208, 209 and 212. Available at: [http://www.ilo.org/wcmsp5/groups/public/---africa/---ro-addis\\_ababa/---ilo-kinshasa/documents/genericdocument/wcms\\_323484.pdf](http://www.ilo.org/wcmsp5/groups/public/---africa/---ro-addis_ababa/---ilo-kinshasa/documents/genericdocument/wcms_323484.pdf)
- Law 09/001 dated 10 January 2009 on child protection, Article 110 al. 4. Available at: <https://www.ilo.org/dyn/natlex/docs/SERIAL/84828/94647/F1949034568/Protection%20de%20l'enfant%202.pdf>
- Organic Law 1961, Decree on Social Security. Available at: [http://www.droitcongolais.info/files/8.1.-Decret-loi-organique-du-29-juin-1961\\_Securite-Sociale.pdf](http://www.droitcongolais.info/files/8.1.-Decret-loi-organique-du-29-juin-1961_Securite-Sociale.pdf)
- Departmental Decree 0021 dated 10 April 1978 on Affiliation, Registration, Contributions, Article 12. Available at: [http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/9457/94732/F1369569576/securite%20sociale%20\(affiliation\).pdf](http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/9457/94732/F1369569576/securite%20sociale%20(affiliation).pdf)
- Ministerial Decree 12/CAB.MIN/TPS/045/08 dated 8 August 2008 fixing the conditions of child labour, Articles 16 and 18. Available at: <http://www.leganet.cd/Legislation/JO/2008/15.08.08.12.45.pdf>

### 1.12.2. Legal authority

- National Labour Inspectorate
- National Employment Office (ONEM)

- National Commission of Foreigners' Employment (*Commission Nationale de l'Emploi des Étrangers*)
- National Institute for Social Security

### 1.12.3. Legally required documents or records

- Contracts signed by the company and the employees and verified by the National Employment Office (ONEM)
- Contracts signed by the company and the workers covered by the National Commission of Foreigners' Employment;
- Registration cards of employees at the National Institute for Social Security (INSS)
- Birth certificate of employees
- Certificate of physical condition based on the results of the medical examination
- List indicating names, surnames, and birth date of each employee

### 1.12.4. Sources of information

#### *Government sources*

- Observatoire de la Gouvernance Forestière (2014). *Rapport de mission terrain No 3. Observation indépendante de la mise en pallication de la loi forestière et de la gouvernance (OI-FLEG)* (Mission report no. 3 – Independent field observation of the implmenetation of the Forest Law and Governance). [online]. Available at: [http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport\\_OIFLEG\\_-Mission-Bandundu\\_2014.pdf](http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport_OIFLEG_-Mission-Bandundu_2014.pdf) [Accessed 27 May 2016].

#### *Non-Government sources*

- Report on the information collection related to the socio-economic measures' fulfilment (from the specifications) by forestry companies as well as regarding the workers' conditions within the forestry concessions. Company cases: SODEFOR, ITB, CB operating in the Bandundu Province in the DRC (ORGANISATION CONGOLAISE DES ECOLOGISTES ET AMIS DE LA NATURE (2012). *Rapport sur la Collecte d'informations liées au respect des dispositions relatives aux réalisations socioéconomiques (du Cahier des charges) par les entreprises forestières ainsi que les conditions des travailleurs au sein des concessions forestières. Cas des Sociétés: SODEFOR, ITB, CB opérant dans la Province du Bandundu en RDC.* Available at: [http://www.forestsmonitor.org/uploads/2e90368e95c9fb4f82d3d562fea6ed8d/OE\\_R DC\\_OCEAN.pdf](http://www.forestsmonitor.org/uploads/2e90368e95c9fb4f82d3d562fea6ed8d/OE_R DC_OCEAN.pdf). [Accessed 27 May 2016].

### 1.12.5. Risk determination

#### *Overview of Legal Requirements*

Articles 208 and 209 of the Code du Travail Congolais say the following:

- Legislation requires working contracts signed by the two parties: employer and employee

- In case of foreign workers, the workers must obtain a work visa delivered by the National Employment Office (ONEM). They are registered at the National Commission of Foreigners' Employment which also governs their rights under the supervision of the National Ministry of Labour and Social Welfare.
- The employer must register his employees with social security office.
- Employee's recruitment has to comply with the 16 year minimum age condition set by the national legislation and in conformance with the International Labour Organization,

#### *Description of Risk*

According to the Organisation Congolaise des écologistes et amis de la nature (2012), the relations between the company and its employees are not formally described according to the legal and regulatory provisions quoted above: Employers sometimes hire employees without a signed contract or fail to register all their employees with social security. In many cases, there is no control of the employee's age when hired in a forestry company, so there is a risk that employees are under-age. According to the author of this risk analysis (Katshunga), based on his extensive experience as a lawyer in the DRC, this is particularly the case in rural areas and around the country, where births are not reported to the Civil Registry Office for registration. It is therefore difficult for employers to verify the age of the worker hired and, where there is no evidence, employers trust the statements of the candidate. In the absence of authentic documents, the companies may recruit minors in violation of the Law on Protection of Children and provisions of the International Labour Organization.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Formal work contracts are not always established; employers do not always register their employees with social security, and age is not always controlled at hiring. Identified laws are not sufficiently enforced by relevant authorities.

#### **1.12.6. Risk designation and specification**

Specified risk

#### **1.12.7. Control measures and verifiers**

Field visits by purchaser could be important here to verify such large documents as workers' contracts, certificates and reports from the administrative control services to certify compliance with the law. Field visits are also required to check the occurrence of child labour. As for documented evidence, the following should be requested of the supplier:

- Signed contracts between the company and the employees
- Signed contracts between the company and the foreign workers
- Employee registration cards at the National Institute for Social Security (INSS)
- Labour Inspectorate report



- 
- Report of control missions of the administration officers
  - Minutes of proceedings of officers' and officials under oath
  - Independent Monitoring report on forestry control

## THIRD PARTIES' RIGHTS

### 1.13 Customary rights

*Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.*

#### 1.13.1. Applicable laws and regulations

- Forest Code – Articles 36, 38, 39, 41 and 44 and the following: 82 and 84. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Ministerial Decree 023/CAB/MIN/ECN-T/28/JEB/10 dated 7 June 2010 determining the model agreement constituting the social clause of the specifications of the forest concession contract. Available at: <http://fr.calameo.com/books/00096385255af66a96130>

#### 1.13.2. Legal authority

- Secretary General for environment and forests
- Director of forest management
- Forest inspectors

#### 1.13.3. Legally required documents or records

- Reports of control missions by administration officials
- Minutes by forest administration agents and of officials under oath
- Statements of hiring members of local and indigenous communities made by the logging companies, since the law requires local hiring: "With equal skill, labour should be recruited primarily in local communities in order to mitigate the risk of conflicts"
- Pay slips for employees
- Employment contract
- Management plans identifying resources rights of local and indigenous communities
- Expense papers signed by the logging companies and local or indigenous communities

#### 1.13.4. Sources of information

##### *Government sources*

- Observatoire de la Gouvernance Forestière (2014). *Rapport de mission terrain No 3. Observation indépendante de la mise en pallication de la loi forestière et de la gouvernance (OI-FLEG)* (Mission report no. 3 – Independent field observation of the implmenetation of the Forest Law and Governance). [online]. Available at: [http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport\\_OIFLEG\\_-Mission-Bandundu\\_2014.pdf](http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport_OIFLEG_-Mission-Bandundu_2014.pdf) [Accessed 27 May 2016].

### *Non-Government sources*

- Observateur Indépendant FLEG - RDC (2013). *Stratégie de la société civile sur l'observation indépendante de la législation et de la gouvernance forestière (OI-FLEG) en RDC* (Civil society strategy on independent monitoring of legislation and forest governance (FLEG) in the DRC). [online]. Available at: [http://www.observation-rdc.info/documents/RDC\\_strategie\\_OI\\_2013.pdf](http://www.observation-rdc.info/documents/RDC_strategie_OI_2013.pdf) [Accessed 24 May 2016]
- Group of social NGOs (2013). *Universal Periodic Review of the Democratic Republic of Congo*. [online]. Indigenous peoples in the DRC: The injustice of multiple forms of discrimination. Available at: <http://globalforestcoalition.org/wp-content/uploads/2014/04/RAPPORT-ALTERNATIF-UPR-ONG-PEUPLES-AUTOCHTONES-RDC- ANGLAIS.pdf>. Accessed 2 July 2016.
- Centre d'Accompagnement des Autochtones Pygmées et Minoritaires Vulnérables (CAMV), Forest Peoples Programme (FPP) (2008). *Rapport supplémentaire sur le Rapport Périodique de la République démocratique du Congo à la Commission Africaine des Droits de l'Homme et des Peuples (Report on Human and Peoples Rights in DRC)*. Available at: <http://www.forestpeoples.org/sites/fpp/files/publication/2010/08/drcachprsupprepa pr08fr.pdf>. [Accessed 30 July 2016]

#### **1.13.5. Risk determination**

##### *Overview of Legal Requirements*

The law requires that the user rights of the local communities in the forest concession be recognised and respected. The law also requires that, when equally competent, employees should be recruited among the local communities and/or indigenous peoples to ensure fairness and to maintain social peace. If harm is caused to the interests of the indigenous communities and local communities following forest harvesting, the local communities are compensated in accordance with the applicable regulations. Furthermore, point C of Article 89 of the Forest Law, includes social charges (social obligations) for the concession holder as part of the forest concession contract. These social obligations are taken into account in the Forest Management Plan.

##### *Description of Risk*

As a whole, the user rights of the local communities and the indigenous peoples are not respected. Access to these rights and resources is often the subject of many restrictions, limitations or even prohibitions from the forestry companies (CAMV and FPP, 2008). The companies do not often use local workers to carry out the work. This state of affairs causes conflicts between the workers from distant local communities and the communities bordering the working site. The logging companies are reluctant to compensate local communities and indigenous peoples for loss, or repair damage, caused by forest harvesting (CAMV and FPP, 2008).

##### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### 1.13.6. Risk designation and specification

Specified risk

#### 1.13.7. Control measures and verifiers

- Stakeholder consultation shall confirm that customary rights are observed during harvesting activities.

Reports of control missions by administration officials may be available on websites and may be viewed remotely by a buyer. The following documents however might not be easily consulted remotely and may require a site visit:

- Minutes of officers' proceedings and officials under oath, are elements of evidence that the rights of local communities and indigenous peoples affected by the operations of the supplier, are respected;
- Reports of the independent observer of forest control are another piece of evidence that the buyer can check to verify if the rights of local communities and indigenous peoples affected by the logging of its suppliers have been respected;
- Minutes of the commission of forest disputes
- Pay slips
- Employment contract
- Collective agreement
- Management plans identifying resources rights of local and indigenous communities
- Expense papers signed by the logging companies and local or indigenous communities

### 1.14. Free prior and informed consent

*Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.*

#### 1.14.1. Applicable laws and regulations

N/A

There is no law or regulatory act on FPIC in DRC. This is non-applicable.

#### 1.14.2. Legal authority

N/A

#### 1.14.3. Legally required documents or records

N/A

#### **1.14.4. Sources of information**

N/A

#### **1.14.5. Risk determination**

N/A

#### **1.14.6. Risk designation and specification**

N/A

#### **1.14.7. Control measures and verifiers**

N/A

### **1.15. Indigenous/traditional peoples' rights**

*Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.*

#### **1.15.1. Applicable laws and regulations**

N/A

The DRC has not yet adopted specific legislation for indigenous pygmies even if a draft law has been prepared by civil society and submitted to experts and member of Parliament to present it to Parliament. There is therefore no law nor any regulatory act on the rights of indigenous peoples in the country, and this indicator is not applicable.

#### **1.15.2. Legal authority**

N/A

#### **1.15.3. Legally required documents or records**

N/A

#### **1.15.4. Sources of information**

N/A

#### **1.15.5. Risk determination**

N/A

#### **1.15.6. Risk designation and specification**

N/A

#### **1.15.7. Control measures and verifiers**

N/A

## TRADE AND TRANSPORT

### 1.16. Classification of species, quantities, qualities

*Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).*

#### 1.16.1. Applicable laws and regulations

- Law 73/009 dated 5 January 1973 about trade. Available at: <http://www.droit-afrique.com/upload/doc/rdc/RDC-Loi-1973-09-portant-sur-le-commerce.pdf>
- Law 11/2002 dated 29 August 2002 on the Congolese Forest Code. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Ministerial Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 relating to timber harvesting, Articles 54 and 58. Available at: <http://fr.calameo.com/read/000963852b9ac328e584e>

#### 1.16.2. Legal authority

- Ministry of Transport and Lines of Communication
- Ministry of Forests
- Ministry of Economy and Exterior Trade
- Forest inspectors Traffic Police Officers

#### 1.16.3. Legally required documents or records

- Field book
- Registration certificate or pink card
- Automobile insurance
- Transport authorisation
- Certificate of statutory roadworthiness test
- Driver's license

#### 1.16.4. Sources of information

##### *Government sources*

- Observatoire de la Gouvernance Forestière (2014). *Rapport de mission terrain No 3. Observation indépendante de la mise en pallication de la loi forestière et de la gouvernance (OI-FLEG)* (Mission report no. 3 – Independent field observation of the

implmenetation of the Forest Law and Governance). [online]. Available at: [http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport\\_OIFLEG -Mission-Bandundu\\_2014.pdf](http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport_OIFLEG_-_Mission-Bandundu_2014.pdf) [Accessed 27 May 2016].

#### *Non-Government sources*

- Lawson, S. (2014). *L'exploitation illégale des forêts en République démocratique du Congo* (The illegal exploitation of forests in the Democratic Republic of Congo). [online]. London: Chatham House. Available at: [http://indicators.chathamhouse.org/sites/files/reports/Lawson\\_DRC\\_PP\\_2014\\_FR.pdf](http://indicators.chathamhouse.org/sites/files/reports/Lawson_DRC_PP_2014_FR.pdf) [Accessed 2 July 2016]
- Katshunga, D., A. Mpoyi, & C. Adebu (2011). *Analyses et observations du secteur forestier en 2010* (Analysis and observations of the Forestry sector in 2010).
- Transparency International (2016). *Corruption Perceptions Index 2015 – Democratic Republic of Congo*. [online]. Available at: <https://www.transparency.org/country/#COD> [Accessed 18 May 2016].
- World Bank (2014). *Worldwide Governance Indicators – Congo, Dem. Rep.* [online]. Available at: <http://info.worldbank.org/governance/wgi/c248.pdf> [Accessed 18 May 2016].

#### **1.16.5. Risk determination**

##### *Overview of Legal Requirements*

The holder of a permit to harvest timber maintains, for each annual operation area, a field book with the following information:

- 1) the serial number of the trees;
- 2) the commercial or scientific name of the species or, failing that, the common name;
- 3) the date of felling;
- 4) the diameter of the trees and their lengths;
- 5) the numbers and sizes of logs produced: length, diameter and volume;
- 6) the date of hauling of each log and its likely destination.

Source: Article 50 de l'Arrêté Ministériel n° 035/CAB/9/MIN/ECN-EF/2006 Relatif à l'Exploitation Forestière.

No timber forest product is allowed to circulate from the place of operations to that of its sale or landing if it is not accompanied by a circulation permit issued (free of charge) by the administration responsible for forests for the area.

The travel permit is taken from a counterfoil and must state:

- 1) the identity of the carrier;
- 2) the identification of the means of transport;
- 3) the full identity of the logging company;
- 4) the route and destination of forest products;

5) the volume or quantity of products allowed to circulate;

6) the date of issue and the validity period of the permit.

Source: Articles 54 et 55 de l'Arrêté Ministériel n° 035/CAB/9/ MIN/ECN-EF/2006  
Relatif à l'Exploitation Forestière précité

Trucks and other vehicles that transport forestry products have to be properly registered and licensed and must be used solely for the transport of legally harvested timber. Fauna and flora products which are subject to national or international harvesting bans are not permitted to be carried on the company's vehicles.

#### *Description of Risk*

According to Katshunga (2011), some forestry companies involved in transportation of wood do not bother producing the field book. Without this book, it becomes difficult to verify the elements required by the law (quality, quantity, species, the date of felling, the discharge date and the place of destination) for the transported wood. Others enact document fraud by using a field book containing false or difficult-to-verify information, in order to pay less tax than they should for the volume, quality and/or species harvested. Some forestry companies transport timber without obtaining the necessary transport permit from the Forestry Administration, or they present a falsified permit.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.16.6. Risk designation and specification**

Specified risk

#### **1.16.7. Control measures and verifiers**

- Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents
- Evidence shall be provided upon request (photographs of labelling)
- Physical control where it should be verified that the present material equals what has been invoiced and marked
- The purchaser should ask to see the field book and make sure it contains all the information mentioned above. The species, volumes, qualities, dates, etc. identified in the field book should coincide with the wood the purchaser has ordered from the supplier.
- This is difficult to verify, but the supplier could try to check that the circulation permit was issued for free instead of having been obtained through bribery;
- The purchaser should also request the following evidence from the supplier:
  - Report of the control missions of the administration agents to see if any transport violation has been detected;



- Minutes of proceedings of officers and officials under oath if there have been infractions;
- Reports from the Independent Observer of forests, which will identify infractions if any have occurred.

## 1.17. Trade and transport

*All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.*

### 1.17.1. Applicable laws and regulations

- Law 73/009 dated 5 January 1973 regarding trade. Available at: <http://www.droit-afrique.com/upload/doc/rdc/RDC-Loi-1973-09-portant-sur-le-commerce.pdf>
- Law 78/022 dated 30 August 1978 on the New Traffic Regulations. Available at: <http://www.leganet.cd/Legislation/DroitPenal/Roulage/Codedelaroute.L78.022.30.08.1978.htm>
- Decree 08/15 dated 28 June 2008 identifying the technical specifications of registration plates within the field of competence of the Directorate General of Taxes, Articles 2 and 3. Available at: <http://www.leganet.cd/Legislation/JO/2009/JO.15.01.09.08.15.pdf>
- Ministerial Decree 409/CAB/MIN/TC/0136/2006 dated 18 December 2006 rendering mandatory the carrying of the distinctive Congolese State sign "CGO" and of the reflective sign on all automobile vehicles circulating nationally in the Democratic Republic of the Congo, Article 2. Available at: [http://www.droitcongolais.info/files/7.9.4.-Arrete-du-18-decembre-2006\\_Vehicules-automobiles\\_port-du-signe-CGO.pdf](http://www.droitcongolais.info/files/7.9.4.-Arrete-du-18-decembre-2006_Vehicules-automobiles_port-du-signe-CGO.pdf)
- Ministerial Decree 409/CAB/MIN/TC/002/98 on the regulations of the MOT on automobile vehicles and trailers in circulation in the Democratic Republic of the Congo, Article 9. Available at: <http://www.droitcongolais.info/files/Les-impots-en-RDC.pdf>
- Ministerial Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 relating to timber harvesting, Articles 50, 51, 52, 53, 54, 55, 56, 57 and 58. Available at: <http://fr.calameo.com/books/000963852b9ac328e584e>

### 1.17.2. Legal authority

- Ministry of Transport and Lines of Communication
- Ministry of Forests
- Ministry of Economy and Exterior Trade
- Inspectors of Forest Control

- Traffic Police Officers

#### 1.17.3. Legally required documents or records

- Registration certificate or pink card
- Automobile insurance
- Transport authorisation
- Certificate of statutory roadworthiness test
- Driver's license
- Harvesting license
- Special harvesting permit

#### 1.17.4. Sources of information

##### *Government sources*

- Observatoire de la Gouvernance Forestière (2014). *Rapport de mission terrain No 3. Observation indépendante de la mise en pallication de la loi forestière et de la gouvernance (OI-FLEG)* (Mission report no. 3 – Independent field observation of the implmenetation of the Forest Law and Governance). [online]. Available at: [http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport\\_OIFLEG\\_-Mission-Bandundu\\_2014.pdf](http://www.ogfrdc.cd/wp-content/uploads/2015/03/Rapport_OIFLEG_-Mission-Bandundu_2014.pdf) [Accessed 27 May 2016].

##### *Non-Government sources*

- Fédération des industriels du bois (2012). *Exportations du bois et APV/FLEGT en RDC* (Timber exports and VPA / FLEGT in the DRC). [online]. Forest Governance Forum. Available at: [http://forestgovernanceforum.com/wp-content/uploads/2012/04/Francoise-Van-den-Ven-FIB-Exportations-du-Bois-et-APV\\_FLEGT-en-RDC.pdf](http://forestgovernanceforum.com/wp-content/uploads/2012/04/Francoise-Van-den-Ven-FIB-Exportations-du-Bois-et-APV_FLEGT-en-RDC.pdf). [Accessed 28 May 2016].
- Lawson, S. (2014). *L'exploitation illégale des forêts en République démocratique du Congo* (The illegal exploitation of forests in the Democratic Republic of Congo). [online]. London: Chatham House. Available at: [http://indicators.chathamhouse.org/sites/files/reports/Lawson\\_DRC\\_PP\\_2014\\_FR.pdf](http://indicators.chathamhouse.org/sites/files/reports/Lawson_DRC_PP_2014_FR.pdf) [Accessed 2 July 2016]
- Katshunga, D., A. Mpoyi, & C. Adebu (2011). *Analyses et observations du secteur forestier en 2010* (Analysis and observations of the Forestry sector in 2010).

#### 1.17.5. Risk determination

##### *Overview of Legal Requirements*

No timber forest product is allowed to circulate from the place of operations to that of its sale or landing if it is not accompanied by a travel permit issued (free of charge) by the administration responsible for forests for the area.

The travel permit is taken from a counterfoil and must state:

- 1) the identity of the carrier;

- 2) the identification of the means of transport;
- 3) the full identity of the logging company;
- 4) the route and destination of forest products;
- 5) the volume or quantity of products allowed to circulate;
- 6) the date of issue and the validity period of the permit.

Source: Articles 54 et 55 de l'Arrêté Ministériel n° 035/CAB/9/ MIN/ECN-EF/2006  
Relatif à l'Exploitation Forestière précité

Trucks and other vehicles that transport forestry products must be properly registered and licensed, and must be used solely for the transport of legally harvested timber for which the operator is authorised to purchase, sell and transport.

The companies should not be involved in the transport of biodiversity products that are subject to a national or international ban.

#### *Description of Risk*

Some forestry companies transport timber without obtaining the necessary transport permit from the Forestry Administration, or they present a falsified permit (Katshunga, 2011).

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.17.6. Risk designation and specification**

Specified risk

#### **1.17.7. Control measures and verifiers**

Requirements related to transport means (e.g. trucks) shall always be followed

Species and product types shall be traded legally.

Required trade permits shall exist and be documented.

All required transport documents shall exist and be documented.

Volume, species and qualities shall be classified according to legal requirements.

Documents related to transportation, trade or export shall be clearly linked to the specific material in question

- The purchaser should ask to see the circulation permit and the field book and make sure they contain all the information mentioned above. The species, volumes, qualities, dates, etc. identified in the field book should coincide with the wood the purchaser has ordered from the supplier.
- This is difficult to verify, but the supplier could try to check that the circulation permit was issued free of charge instead of having been obtained through bribery;

- The purchaser should also request the following evidence from the supplier:
  - Report of the control missions of the administration agents to see if any transport violation has been detected;
  - Minutes of proceedings of officers and officials under oath if there have been infractions;
  - Reports from the independent observer of forest control which will identify infractions if any have been identified.

## **1.18. Offshore trading and transfer pricing**

*Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.*

### **1.18.1. Applicable laws and regulations**

- Law 73/009 dated 5 January 1973 regarding trade. Available at: <http://www.droit-afrique.com/upload/doc/rdc/RDC-Loi-1973-09-portant-sur-le-commerce.pdf>
- Law 11/2002 dated 29 August 2002 on the Congolese Forest Code. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>

### **1.18.2. Legal authority**

- Ministry of Forests
- Ministry of Exterior Trade
- Department of Forest Management
- Department of the Congolese Control Office

### **1.18.3. Legally required documents or records**

- Authorisation to purchase, sell and export timber
- Certificate of verification of export and/or the batch report ready for export
- Export tax
- Payment of reforestation tax

### **1.18.4. Sources of information**

*Government sources*

- Resource Extraction Monitoring (REM) (2013). *Final Report - Independent Monitoring of the implementation of the Forest Law and Governance (FLEG) Democratic Republic of Congo*. [online]. Available at: [http://observation-rdc.info/documents/Rapport\\_annuel\\_OIFLEG\\_RDC\\_REM\\_2013.pdf](http://observation-rdc.info/documents/Rapport_annuel_OIFLEG_RDC_REM_2013.pdf) [Accessed 18 May 2016].

#### *Non-Government sources*

- Greenpeace (2013). *Coupez! L'exploitation forestière illégale en République démocratique du Congo (RDC) – un mauvais scénario*. (Cut! Illegal logging in the Democratic Republic of Congo (DRC) - a bad scenario). Available at: <http://www.greenpeace.org/africa/global/africa/publications/forests/coupez.pdf> [Accessed 27 May 2016].
- Global Witness (2015). *L'impunité exportée* (The exported impunity). [online]. Available at: [http://www.congoforum.be/upldocs/RDC\\_Bois\\_Export\\_Illegal\\_GW\\_15.pdf](http://www.congoforum.be/upldocs/RDC_Bois_Export_Illegal_GW_15.pdf) [Accessed 20 May 2016]
- Chambre de commerce Belgo-Congolaise-Luxembourgeoise (n.d.). *No title*. Available at: [www.ccbc-rdc.be/congo.html](http://www.ccbc-rdc.be/congo.html) [Accessed 2 July 2016]
- Greenpeace (2008). *Arnaques au Congo* (Scams in the Congo). Rapport de Greenpeace. [online]. Available at: [www.greenpeace.org/france/pagefiles/266591/arnaques-au-congo.pdf](http://www.greenpeace.org/france/pagefiles/266591/arnaques-au-congo.pdf) [Accessed 2 July 2016]

#### **1.18.5. Risk determination**

##### *Overview of Legal Requirements*

All timber sale contracts must be approved by the Administration. The Department of Forest Management monitors the compliance of timber prices compared to Mercurial for the sale of Congolese timber outside of the country. The list of timber prices abroad (Mercurial) is established by the Congolese Control Office (OCC) and is known to all loggers. All sales contracts must state timber prices consistent with this Mercurial to be approved by the Administration.

The Operator shall address its request to obtain a purchase authorisation and sale and export to the Minister in charge of forests. Before the export of timber, forest administration ensures the payment of reforestation tax and the administration of the Foreign Trade verifies the payment of the export tax. This authorisation is relevant here to the extent that the Minister issues it for the sale of wood abroad, after the administration has checked the compliance of the price of wood compared to Mercurial and payment of tax export.

##### *Description of Risk*

According to the Chambre de commerce Belgo-Congolaise-Luxembourgeoise, and Greenpeace (2008), certain forestry businesses and notably the small-scale loggers end up exporting timber without having obtained an authorisation for purchase, sale and export from the Ministry in charge of forests, relying on a sales contract, duly verified

by the DGF. Any fraud or tax evasion is therefore at the detriment of the public treasury.

Very few forestry businesses are concerned with the proposed price of the timber that they export, depending on the Mercurial for the sale of Congolese timber outside the country. This is accentuated by the context of corruption and the deficit of forest controls and customs in the country.

International trade of logs harvested illegally and involving the use of illegal transfer pricing practices, under-invoicing and other similar practices, exacerbates the problem of illegal logging in the DRC.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.18.6. Risk designation and specification**

Specified risk

#### **1.18.7. Control measures and verifiers**

- If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as “tax havens”.
- There shall be no illegal manipulation in relation to the transfer pricing.
- The purchaser who wants to control the risk of transfer pricing should request the invoicing history for the wood being purchased and check it against the publicly available list of prices of the Mercurial. The purchaser should also request:
  - Authorisation to purchase, sell and export softwood timber
  - Contract of sale with a confirmed buyer
  - Debit and collection note
  - Batch report ready for exportation
  - Packing list

### **1.19. Custom regulations**

*Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).*

#### **1.19.1. Applicable laws and regulations**

- Law 73/009 dated January 1973 regarding trade. Available at: <http://www.droit-afrique.com/upload/doc/rdc/RDC-Loi-1973-09-portant-sur-le-commerce.pdf>
- Ruling Law 10/002 dated 20 August 2010 on Customs Code. Available at: <http://www.leganet.cd/Legislation/Dfiscal/Douanes/OL.10.002.20.08.2010.htm>
- Law 11/2002 dated 29 August 2002 on the Congolese Forest Code – Articles 121 and 122. Available at:

<http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>

- Law 004/2003 dated 13 March 2003 on the reforms of fiscal procedures, Article 7. Available at: <http://www.leganet.cd/Legislation/Dfiscal/Loi004.2003.13.03.2003.htm>

#### **1.19.2. Legal authority**

- Ministry of Finance
- Minister of Forests
- Office of Customs and Excise (OFIDA)

#### **1.19.3. Legally required documents or records**

- Certificate of verification of export
- Export tax
- Deposit slip
- Authorisation to purchase, sell and export softwoods
- Contract of sale with a confirmed buyer
- Debit and collection note
- Batch report ready for exportation
- Packing list

#### **1.19.4. Sources of information**

##### *Government sources*

- Kinshasha (2012). *Exploitation illégale des forêts: agents de l'Etat et exploitants industriels indexes* (Illegal exploitation of forests: State agents and industrial operator's indices) [online]. *Digital Congo*. Available at: <http://www.digitalcongo.net/article/87510> [Accessed 28 May 2016]

##### *Non-Government sources*

- Caramel, L. (2016). *La RDC, paradis du commerce illégal du bois?* (The DRC, paradise of illegal timber trade?). [online]. *Lemonde*. Available at: [http://www.lemonde.fr/planete/article/2015/06/03/la-rdc-paradis-du-commerce-illégal-du-bois\\_4646050\\_3244.html](http://www.lemonde.fr/planete/article/2015/06/03/la-rdc-paradis-du-commerce-illégal-du-bois_4646050_3244.html) [Accessed 28 May 2016]

#### **1.19.5. Risk determination**

##### *Overview of Legal Requirements*

The law requires the company to have the authorisations and valid licenses for import and export of timber. These authorisations and licenses include the classification of products with registration numbers or codes, quantities, qualities and species.

The operator sends a request to the Office of Customs and Excise (OFIDA) with a copy to the Director General to declare the goods the operator is holding, to request a control

of the goods by authorities and, where applicable, to request the certificate of verification for export.

#### *Description of Risk*

An enormous quantity of Congolese timber is exported illegally by small-scale loggers through whom the timber crosses the borders to adjacent countries; including certain forestry businesses hiding behind this identity and avoiding paying export taxes or reforestation taxes at the border control (Caramel, 2016). This is the case in the Eastern and North Eastern provinces of the DRC where insecurity still remains, caused by the different rebel groups and warlords like the LRA (Lord's Resistance Army), the ADF-NALU (Allied Democratic Forces), and the FDLR (Democratic Forces for the Liberation), etc.

It follows that the risks include the systematic looting of the forest resource and a large tax evasion problem.

#### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.19.6. Risk designation and specification**

Specified risk

#### **1.19.7. Control measures and verifiers**

- Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.).
- All required import and exports permits shall be in place.

Copies of certain documents such as authorisations for the purchase, sale and export of timber, debit notes and rating of collected export tax and packing list can be scanned and sent to be checked remotely by an interested buyer. However, other documents such as the sales contract with the buyer, and validated batch report ready to export they could require a field visit. The purchaser should also request:

- Authorisation to purchase, sell and export softwoods
- Contract of sale with a confirmed buyer
- Debit and collection note
- Batch report ready for exportation
- Packing list

#### **1.20. CITES**

*CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).*



### 1.20.1. Applicable laws and regulations

- Law 011/2002 dated 29 August 2002 on the Congolese Forest Code – Articles 49, 50 et 51. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/rdc-loiforets.pdf>
- Decree 035/CAB/MIN/ECN-EF/2006 dated 5 October 2006 relative to timber harvesting, Articles 12, 13, 14, to 15. Available at: <http://fr.calameo.com/read/000963852b9ac328e584e>
- Ministerial Decree CAB/MIN/AF.F-E.T/276/2002 dated 5 November 2002 which determines the protected forest species, Articles 1, 2, 3 and 4. Available at: <http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.276.2002.05.11.2002.htm>

### 1.20.2. Legal authority

- Ministry of Environment
- General Secretary in charge of forests
- Department of Forest Management
- Congolese Institute of Nature Conservation (ICCN)

### 1.20.3. Legally required documents or records

- Special harvesting permit
- Special harvesting authorisation
- CITES permit for export of protected species

### 1.20.4. Sources of information

#### *Government sources*

- List of species subject to specific management
- Trimestral declarations of the volumes of timber
- Report from the Congolese Institute of Nature Conservation

#### *Non-Government sources*

- IUCN (2010). *Parcs et réserves de la République Démocratique du Congo - Evaluation de l'efficacité de la gestion des aires protégées (Parks and reserves of the Democratic Republic of Congo - Assessment of the effectiveness of the management of protected areas)*. [online]. Available at: <http://papaco.org/wp-content/uploads/2015/09/RAPPAM-RDC-impression-110629-A4.pdf> [Accessed 30 July 2016]
- Greenpeace (2015). *Un coup dur pour la RDC: suspension du commerce des espèces de la CITES (A blow to the DRC: suspension of trade in CITES species)*. [online]. Greenpeace. Available at:

<http://www.greenpeace.org/africa/fr/Presse/Publications/Un-coup-dur-pour-la-RDC-suspension-du-commerce-des-especes-de-la-CITES/> [Accessed 28 May 2016]

- Maweja, P.L. (2015). *Le commerce illicite fait le bonheur des groupes armés* (The illegal trade is the happiness of armed groups). [online]. *Business et Finances*. Available at: <http://www.business-et-finances.com/le-commerce-illicite-fait-le-bonheur-des-groupes-armes/> [Accessed 2 July 2016]
- Forest Governance Forum (2012). *Rapport Des Travaux Du Forum Sur La Gouvernance Forestiere En Afrique Kinshasa* (Report Of The Work Of The Forest Governance Forum In Africa Kinshasa). [online]. *Forest Governance Forum*. Available at: <http://forestgovernanceforum.com/wp-content/uploads/2012/04/RAPPORT-DE-FORUM-SUR-LA-GOUVERNANCE-FORESTIERE-EN-AFRIQUE.doc> [Accessed 2 July 2016]

### 1.20.5. Risk determination

#### *Overview of Legal Requirements*

The harvesting of certain protected species, a list of which is determined in an appendix in the aforementioned Ministerial Decree 276 dated November 2002, is conditioned by the acquisition of a special harvesting permit or a special harvesting authorisation issued by the General Secretary in charge of forests.

In the DRC, the tree species subject to protection are Afrormosia (*Pericopsis elata*), Wenge (*Millettia laurentii*) and Ebony (*Diospyros crassiflora*).

#### *Description of Risk*

The Forest Governance Forum (2012) reports that, in principle, it is required of any operator to obtain a CITES permit for export of protected species listed by the list annexed to the Washington Convention. However, it is very difficult or almost impossible for operators to obtain this document due to the fact that it is issued from CITES offices located abroad.

Thus operators or traders of Congolese wood must obtain from the Secretary General special local permits and authorisations for logging and harvesting of these protected species. Once they have these permits, they abuse them by presenting them as authorisations of export, exploiting the complacency or ignorance of agents and controllers of the State assigned to customs services (IUCN, 2015).

Based on the experience of the author of this risk analysis (Katshunga), many other forest operators engage in harvesting of protected fauna and flora species without being concerned with obtaining a special harvesting permit or a special harvesting authorisation from the competent authority (the General Secretary of the Administration of Forests). Consequently, these protected species are in constant danger of extinction and the illegal harvesting encourages tax evasion in the country. However, the Administration of Forests maintains this state of affairs because of the following deficiencies:

- Absence of official templates of the special harvesting permit;

- It would have been preferable for such a permit, in view of its exceptional nature, be delivered by the Ministry in charge of forests;
- This special permit does not cover export. In order to export, the logger has to obtain a CITES permit, which, as explained above, is very difficult to get for the export of this type of timber;
- Thus, the loggers are discouraged when applying for the CITES permit and the protected species are exported without a permit or with a forged permit.

### *Risk Conclusion*

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

#### **1.20.6. Risk designation and specification**

Specified risk

#### **1.20.7. Control measures and verifiers**

All cross-border trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities).

The requirement for an export permit from CITES species can be mentioned if only for information, because the laws and regulations of the DRC have not led to any procedure for obtaining this international license. In other words, purchasers cannot request the CITES permit as proof of legality for their purchase of listed wood from the DRC, because this permit is likely not available to their suppliers.

Pending the availability and dissemination of this permit with Congolese operators, operators bypass the administrative difficulty by simply providing the aforementioned special permits and authorisation. This is not legal.

Documents such as the list of species subject to protection, special harvesting permit, the CITES permit for export of these species (although likely unavailable as explained above) can be checked remotely by the purchaser through scanned copy. However, the other documents are quarterly statements, volumes of wood and reports of the Congolese Institute of Nature Conservation which will require a field visit.

- List of species subject to particular management
- Trimestral declarations of the volumes of timber
- Report from the Congolese Institute of Nature Conservation

#### **1.21. Legislation requiring due diligence/due care procedures**

*Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.*

**1.21.1. Applicable laws and regulations**

N/A

There are no specific laws or regulations on due diligence or due care in DRC. This is therefore not applicable.

**1.21.2. Legal authority**

N/A

**1.21.3. Legally required documents or records**

N/A

**1.21.4. Sources of information**

N/A

**1.21.5. Risk determination**

N/A

**1.21.6. Risk designation and specification**

N/A

**1.21.7. Control measures and verifiers**

N/A

## Annex I. Timber source types

The table Timber Source Types in the Democratic Republic of Congo identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farmland, protected areas, etc.
- Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously has impacts on how land can be managed and controlled.
- Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- License type** - Licenses may be issues to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

## TIMBER SOURCE TYPES IN DEMOCRATIC REPUBLIC OF THE CONGO

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural Forest / Primary Forest	Cuvette Centrale	Classified forests	Congolese State under the Land Law (Article 53)	Private system or private management	<ul style="list-style-type: none"> <li>• Harvesting permit,</li> <li>• Special harvesting permit,</li> <li>• Small-scale harvesting permit,</li> <li>• Permit for harvesting fuel wood and charcoal;</li> <li>• Ordinary harvesting permit,</li> <li>• Special harvesting permit</li> </ul>	State-owned natural forests
	North of the country / Equateur and Orientale provinces	Protected forests	Local communities under the custom laws sanctioned by the Constitution			Protected forests can be subjected to a forestry concession that benefits a business; or a forestry concession that benefits a local community
	Bandundu provinces and the north of the two Kasai	Permanent production forests	Congolese State and local communities			
Plantation Forest / Secondary Forest	Equateur and Orientale provinces	Protected forests	Congolese State under the Land Law (Article 53) and the local communities	Public system and private management		State-owned plantations  Protected forests can be subjected

	Bandundu provinces and the north of the two Kasai	Protected forests	Congolese State and local communities			to a forestry concession that benefits a business; or a forestry concession that benefits a local community
	North East and South East provinces (North KIVU, south KIVU and Maniema)	Permanent production forests	Congolese State and local communities			
	KATANGA province	Protected and permanent production forests	Congolese State and local communities			



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## About

### Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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